



## LICENSING AND REGISTRATION COMMITTEE

AGENDA

<b>DATE:</b>	<b>Thursday, 8 September 2022</b>
<b>TIME:</b>	<b>7.30 pm</b>
<b>VENUE:</b>	<b>Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE</b>

**MEMBERSHIP:**

**Councillor Winfield (Chairman)**  
**Councillor V Guglielmi (Vice-Chairman)**  
**Councillor Casey**  
**Councillor Clifton**  
**Councillor Coley**

**Councillor Davis**  
**Councillor J Henderson**  
**Councillor McWilliams**  
**Councillor Skeels**  
**Councillor Wiggins**

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DATE OF PUBLICATION: Wednesday, 31 August 2022

## AGENDA

### **1 Apologies for Absence and Substitutions**

The Committee is asked to note any apologies for absence and substitutions received from Members.

### **2 Minutes of the Last Meeting (Pages 1 - 4)**

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on Thursday, 21 July 2022.

### **3 Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

### **4 Questions on Notice pursuant to Council Procedure Rule 38**

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the District of Tendring **and** which falls within the terms of reference of the Committee.

### **5 Miscellaneous Licensing Sub-Committee (Pages 5 - 10)**

The Committee will formally receive and note, for its information only, the Minutes of the meetings of the Miscellaneous Licensing Sub-Committee held on Wednesday 4 May 2022 and Tuesday 31 May 2022.

### **6 Premises/Personal Licences Sub-Committee (Pages 11 - 18)**

The Committee will formally receive and note, for its information only, the Minutes of the meeting of the Premises/Personal Sub-Committee held on Friday 8 April 2022.

### **7 Report of the Deputy Chief Executive - A.1 - Licensing Act 2003 - Applications Approved Under Delegated Powers (Pages 19 - 26)**

To report to the Committee details of licences that have been approved under Delegated Powers during the period 4 January 2022 to 31 August 2022.

### **8 Report of the Deputy Chief Executive - A.2 - Procedures for Hackney Carriage Fare Scale (Pages 27 - 34)**

As requested by this Committee at its 21 July 2022 (Minute 123 refers), this report sets out possible proposals for amending the delegations within the Council for considering (in the future) possible changes in the Hackney Carriage Fare Scale that applies in the District. The Committee is invited to consider the possible proposals and, if satisfied with them, to approve the recommendations below.

### **9 Report of the Deputy Chief Executive - A.3 - Review of the Councils Licensing Act 2003 Statement of Licensing Policy (Pages 35 - 78)**

This report submits for the Committee's consideration a proposed revised Statement of Licensing Policy (at Appendix A to this report – with tracked changes). The proposed revised Statement is submitted following a recent 28-day period of consultation on a draft revised Statement. Essex Police (on behalf of the Chief Constable) made comments during the consultation period. These are set out below in the 'Current Position' section of the report. The submitted revised Statement of Licensing Policy reflects changes based on feedback from the Committee at its meeting on 21 July and the submission from Essex Police.

**10 Extension of provisions under the Business and Planning Act 2020 - Pavement Licensing Framework (oral report of the Deputy Chief Executive)**

Extension of provisions under the Business and Planning Act 2020 – Pavement Licensing Framework (oral report of the Deputy Chief Executive)

This item is to enable the Committee to receive an update on this matter. In response to the coronavirus pandemic, the Business and Planning Act 2020 introduced temporary provision for a fast-track process to allow businesses selling food or drink to obtain authorisation from the local authority for the placement of furniture such as tables and chairs on highway adjacent to their premises (“a pavement licence”). By virtue of the Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022, the temporary provisions have been extended by twelve months to 30 September 2023. This matter is within the remit of this Committee and the arrangements set out in the decision of 24 July 2020 ([Decision - Operation of the new Pavement Licence Function - Business and Planning Act 2020 \(tendringdc.gov.uk\)](#)) will continue in place. A further written report will be submitted to a future meeting of the Committee.

**11 Exclusion of Press and Public**

The Sub-Committee is asked to consider passing the following resolution:

“That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 6, 7 and 8 on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.”

**12 Exempt Minutes of the Miscellaneous Licensing Sub-Committee Meeting (Pages 79 - 84)**

To confirm as a correct record the exempt minutes of the meeting of the Sub-Committee held on 4 May 2022.

**Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Licensing and Registration Committee is to be held in the at Time Not Specified on Date Not Specified.*

## **Information for Visitors**

**FIRE EVACUATION PROCEDURE**

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**MINUTES OF THE MEETING OF THE LICENSING AND REGISTRATION  
COMMITTEE,  
HELD ON THURSDAY, 21ST JULY, 2022 AT 7.30 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Winfield (Chairman), V Guglielmi (Vice-Chairman), Casey, Clifton, Coley, Davis, J Henderson, McWilliams, Skeels and Wiggins
<b>In Attendance:</b>	Keith Simmons (Head of Democratic Services and Elections), Michael Cook (Licensing Manager) and Keith Durran (Committee Services Officer)

**119. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence or substitution.

**120. MINUTES OF THE LAST MEETING**

It was resolved that the minutes of the meeting of the Committee held on Monday 17 January 2022 were approved as a correct record and signed by the Chairman.

**121. DECLARATIONS OF INTEREST**

There were no declarations of interest by Councillors in relation to any item on the agenda for this meeting.

**122. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38**

On this occasion no Councillor had submitted notice of a question.

**123. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.1 - HACKNEY CARRIAGE FARE SCALE**

The Committee had before it a report that outlined two requests, one from the Tendring Taximeter Forum (TTF) and one from the Clacton Taxi Private Hire Group (CTPHG). Both sought an increase in the Hackney Fare Scale locally. The Committee was informed by the Licensing Manager (Michael Cook) shortly before the meeting the Councils Licensing Team that the TTF were withdrawing its request. This was because the TTF had been unaware of the request by the CTPHG, but now having reviewed the CTPHG request, they believed that this request was more inclusive and robust.

The request from the CTPHG received on 20 June 2022 requesting an increase in the scale of fares and a change of distance for which the Fare was calculated. Outlined below was the interpretation of the request by the CTPHG.

**Includes change in yards on meter and tariff**

	<b>At Current (Rate 1)</b>	<b>Proposed (Rate 1)</b>	<b>At Current (Rate 2)</b>	<b>Proposed (Rate 2)</b>
<b>Ring On</b>	3.00	3.40	4.50	5.10
<b>Mile 1</b>	4.70	5.35	7.05	8.03

<b>Thereafter</b>	1.90	1.95	2.85	2.93
<b>Mile 2</b>	6.60	7.60	9.90	11.41
<b>Mile 3</b>	8.50	9.85	12.75	14.79
<b>Mile 4</b>	10.40	12.10	15.60	18.17
<b>Mile 5</b>	12.30	14.35	18.45	21.55
<b>Waiting Time</b>	0.30p (60 secs)	0.30p (60 secs)	0.45p (60 secs)	0.45p (60 secs)

**Rate 1 workout (1760 yards in a mile)**

Ring on for 1<sup>st</sup> 235 yard £3.40  
 Then remaining 235 yards x 6.5 @ 0.30p  
 (£1.95)  
 First mile = £5.35  
 Each addition 1760 yard (1 mile) = £2.25

With the permission of the Committees Chairman, it heard representations from a representative of the TTF. He explained how they felt the request from the CTPHG was better and that they withdrew their request on the basis they were in full support of the CTPHG request.

The Committee also heard representations from a representative of the CTPHG. He outlined that in his view their request would help in not only softening the impact of the full increases, but also the rising costs running taxis in general, like the cost of insurance, mechanical services and replacement vehicles.

The Committee recalled how they last approved a Hackney Carriage Fare Scale increase with effect from 15 February 2022 (Minute 115 of 17 January 2022 referred).

Members were reminded that should they resolve to approve an intended variation to the existing Hackney Carriage Fare Scale, the law required that the proposed increase must be advertised in a local newspaper and representations may be submitted in response. A period of 14 days (minimum) must be allowed for those representations. If no representations were received in that period the variation to the Fares would take immediate effect. However, if representations were received, the increase would not take effect until those representations have been considered. For this Council, any representations received would be placed before the next available meeting of the Licensing and Registration Committee. The Committee may then determine to confirm the increase, amend the proposed increase or withdraw the increase.

Some Councillors expressed concern that the current constitutional arrangements of the Council did not assist early consideration of requests for changes to the approved Hackney Carriage Fare Scale.

After duly considering the representations received, and an in-depth discussion the Committee **RESOLVED** that:

- a) subject to the statutory process concerned, the Hackney Carriage Fair Scale in the District be amended as follows;
- b) the authority is granted to the Council's Licensing Manager to make all necessary arrangements to give public notice of the intention of the Council to

increase and amend the Hackney Carriage Fare Scale operative within the District in accordance with the decision in this regard; and

- c) that, subject to (b) above, to note that any representations received in response to the said public notice will be considered by the Licensing and Registration Committee at a future meeting.
- d) options for revising the constitutional provisions relating to the consideration of Hackney Carriage Fare Scale change requests be submitted to a future meeting of the Committee.

**124. REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.2 - VIEW OF THE COUNCIL'S LICENSING ACT 2003 STATEMENT OF LICENSING POLICY**

The Committee had before it a formal request to authorise a commencement of a review of the Council's Statement of Licensing Policy made under Section 5 of the Licensing Act 2003; with a view to a new Statement being adopted by this Licensing Authority. As part of the proposed review, the Committee would be invited to consider all representations received during a consultation with stakeholders on the context of a revised Statement of Licensing Policy and to recommend a proposed new Statement to Council. The proposed timetable for the review would see the consultation phase concluded in sufficient time for representations to be submitted to this Committee's, now scheduled, meeting on 31 August 2022; and a proposed new Statement of Licensing Policy being considered by Council at its meeting on 20 September 2022.

The Members recalled that the last time the Council approved a Statement of Licensing Policy was in 2016 (Council Minute 103 from the 9 February 2016 meeting refers). Each Statement should apply for a period of five years and that period normally expires on 6 January (2021 in the most recent instance). In view of the position, where the five year period to which the 2016 Statement had expired, it was vital that all necessary steps were taken to adopt a valid new Statement without delay. The Licensing Authority may determine to apply a five year period to any new Statement of Licensing Policy and thereby any new Statement would not expire on 6 January 2026.

The Committee was advised by the Head of Democratic Services and Elections that an apology was due to the Committee for the situation concerning the absence of a Statement of Licensing Policy since the start of 2021.

During the course of the report some Members raised a number of amendments they would wish to see within the Council's Statement of Licensing Policy.

After a short discussion the Committee **RESOLVED** that it:

- a) Notes that the five year period to which the Authority's Statement of Licensing Policy (adopted in 2016) expired on 6 January 2021;
- b) Authorises the Council's Licensing Manager to take all the required steps set out in the Licensing Act 2003 to enable the Committee at its (now scheduled) meeting on 31 August 2022 to consider the representations from consultees on a new Statement of Licensing Policy and submit a proposed new Statement for consideration by Council on 20 September 2022; and

- c) Authorises, if satisfied, the use of the draft Statement of Licensing Policy 2022-2027 set out at Appendix A to this report for the purposes of consultation with consultees.

The meeting was declared closed at 8.20 pm

**Chairman**

**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,  
HELD ON WEDNESDAY, 4TH MAY, 2022 AT 10.00 AM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors V Guglielmi (Chairman), Casey, Davis and J Henderson
<b>In Attendance:</b>	Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Emma King (Licensing Officer), Debbie Bunce (Legal and Governance Administration Officer) and Chloe Blackwell (Licensing Enforcement Officer)

**1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillor Coley with no substitution.

**2. MINUTES OF THE LAST MEETING**

The minutes of the meeting of the Sub-Committee held on 26 November 2021 were approved as a correct record and signed by the Chairman.

**3. DECLARATIONS OF INTEREST**

There were none.

**4. REPORT OF ASSISTANT DIRECTOR, PARTNERSHIPS - A.1 - HACKNEY CARRIAGE/PRIVATE HIRE LICENCES**

The Sub-Committee noted the contents of Report A.1 Hackney Carriage/Private Hire Driver's, Vehicles and Operators, licensed by the Council as at 20 April 2022.

Councillor J Henderson asked the Licensing Manager why there had been a reduction in the number of drivers since the last report on 26 November 2021 and he said that it is believed many have decided to give up due to retirement age and the Pandemic but would ask why they are not renewing when they inform us.

**5. EXCLUSION OF PRESS AND PUBLIC**

It was moved and seconded, and:-

**RESOLVED** – That under Schedule 100a(4) of the Local Government Act 1972, the public be excluded from the meeting for the items of business to be considered below on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act:

- (a) Exempt Minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 26 November 2021.
- (b) Report of Assistant Director (Partnerships)

B.1 – Review of a Hackney Carriage Vehicle Licence.

B.2 – Review of a Hackney Carriage/Private Hire Driver's Licence.

**6. EXEMPT MINUTES OF THE LAST MEETING**

The exempt minutes of the meeting of the Sub-Committee held on 26 November 2021 were approved as a correct record and signed by the Chairman.

**7. REPORT OF ASSISTANT DIRECTOR, PARTNERSHIPS B.1 - REVIEW OF A HACKNEY CARRIAGE VEHICLE LICENCE - PLATE NO. T054**

**RESOLVED** – (a) that the Applicant be allowed to continue to licence his Hackney Carriage Vehicle, Plate No. T054 until it reaches 13 years of age; and

(b) that the Licensing Manager reviews the current Policy and present this to a future meeting of the Licensing and Registration Committee for its consideration.

**8. REPORT OF THE ASSISTANT DIRECTOR, PARTNERSHIPS - B.2 - REVIEW OF A HACKNEY CARRIAGE VEHICLE DRIVER'S LICENCE**

**RESOLVED** that the Sub-Committee will not take any action on this occasion by way of imposing a sanction but when the Applicant next applies for her Licence in August 2022 this Sub-Committee requires her to provide:-

1. a Medical Report from her GP confirming that her health problems, disclosed as being asthma and depression, are under control and that she is fit to work; and
2. A letter from her Employer, signed, dated and on headed notepaper (or failing that confirmation of the Taxi Firm's name), confirming that the Applicant was employed as a Taxi Driver and that they intended to continue employing her in that capacity.

The meeting was declared closed at 11.59 am

**Chairman**

**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,  
HELD ON TUESDAY, 31ST MAY, 2022 AT 10.00 AM  
IN THE ESSEX HALL - TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15  
1SE**

<b>Present:</b>	Councillors V Guglielmi (Chairman), Coley (Vice-Chairman), Casey and Davis
<b>In Attendance:</b>	Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Emma King (Licensing Officer), Debbie Bunce (Legal and Governance Administration Officer) and William Lodge (Communications Manager)

**9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillor J Henderson with no substitution.

**10. MINUTES OF THE LAST MEETING**

The minutes of the meeting of the Sub-Committee held on 4 May 2022 were approved as a correct record and signed by the Chairman.

**11. DECLARATIONS OF INTEREST**

There were none.

**12. REPORT OF ASSISTANT DIRECTOR, PARTNERSHIPS - A.1 - APPLICATION FOR THE GRANT OF PERMISSION TO SHOW AN UNCLASSIFIED FILM**

The Sub-Committee had before it a report (A.1), which advised it of an application submitted by Michael Offord of The Electric Palace, Harwich, on behalf of Thomas Laurance, an Independent Film Maker for the grant of permission to show the public a full length film that had not been classified by the British Board of Film Classification.

The Sub-Committee was informed that The Electric Palace, Harwich had been closed for a number of years but, after working in partnership with Historic England and The National Lottery Heritage Fund the long running repair and restoration project had been completed, and the cinema was now open again.

It was considered that, by assisting the cinema in providing this classification service at a cost neutral fee, the Council, would be helping to promote and support the town, the District, the local tourist and leisure industries, and the work of local independent filmmakers. In addition, the Electric Palace, Harwich was a special, local venue that provided a diverse range of film and entertainment that was not always catered for by other, more mainstream venues and which attracted visitors into Harwich as a result.

The Electric Palace was therefore an important destination and venue for Tendring's tourist and leisure industry.

Members were advised that this application for permission to show an unclassified film sought to rely on Home Office Circular 98/1982 and Section 1(2) of the Cinemas Act 1985 (in addition to Section 20 of the Licensing Act 2003).

Unfortunately, the Licensing Team had not been able to locate the circular as the Home Office had now archived this. However, the Cinemas Act 1985 had been repealed by the Licensing Act 2003 in respect of England and Wales and therefore, was only in force for Scotland.

The Sub-Committee was made aware that public exhibition of films upon licensed premises must either be classified by the British Board of Film Classification or authorised by the local Licensing Authority under the powers of the Licensing Act 2003.

Paragraph 2(1)(b) of Schedule 1 of the Licensing Act 2003 defined the exhibition of a film as the provision of entertainment regulated in accordance with the Act.

Section 20(3) of the Licensing Act 2003 required that:

“Where—

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.”

Therefore, the admission of children to the public screening of material unclassified by the British Board of Film Classification was subject to authorisation by the local licensing authority in accordance with the powers of the Licensing Act 2003.

In considering whether to authorise the requested exhibition, the Sub-Committee was advised that it should also have regard to the Licensing Act 2003 objectives, which were:

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

The Sub-Committee was made aware that the most relevant licensing objective in respect of the exhibition of films was the protection of children from harm.

Members were also informed that, in carrying out its licensing functions, the licensing authority, when authorising film(s) had, at all times, to take into account the Guidance issued under section 182 of the Licensing Act 2003. The parts of the Guidance of particular relevance to this application were:-

- 2.30 The protection of children from harm
- 10.17 Censorship

- 10.59 and 10.60 Exhibition of films.
- 14.55 Children and Cinemas

It was recommended by Officers that the Sub-Committee used 'The British Board of Film Classification Guidelines' as a reference point for its considerations concerning the access of children to the film(s). In particular, the 'General Classifications Considerations' section of that Guidance was particularly helpful to the Sub-Committee.

The Sub-Committee was aware that the Licensing Authority could impose conditions and specific restrictions upon an authorisation where it was deemed necessary in order to comply with the licensing objectives.

Members were reminded that the Licensing Act 2003 dealt with the exhibition of films as regulated entertainment and that there was a mandatory condition imposed on all licences that permitted the exhibition of films, which required that the recommendations of the British Board of Film classification (BBFC) were followed in respect of the admission of children. However, the licensing authority could give permission for a film that was not classified by the BBFC to be shown, provided the Authority's own requirements were followed by the licence holder.

Arrangements had been made for Members to view the film prior to the Sub-Committee's meeting.

A summary of the film was attached to the report at Appendix B. A member of the Council's Licensing Team had viewed the film and had confirmed that the synopsis was accurate. It was the opinion of the Licensing Team Member that the film should be classified as 12A. This suggestion was made in accordance with the BBFC guidelines, as attached as Appendix D to the Report.

The Sub-Committee was aware that the BBFC was an independent body that classified films, trailers and advertisements on behalf of local authorities who licensed cinemas. Its guidelines set out the classification categories, including the factors that determined which classification a film could be given. Those guidelines were attached to the report for information.

In addition, paragraphs 6.8, 6.9 and 6.10 of Tendring District Council's Statement of Licensing Policy related to Film Exhibitions and the promotion of the protection of children from harm.

It was reported that the film in question had previously been shown at the Leeds Film Festival in November 2021. The Council's Licensing Officers had contacted Leeds City Council's Licensing Department for information on any classification that they had allocated to the film.

In response, Leeds City Council had confirmed that their Licensing Sub-Committee had awarded the appropriate classifications to a total of 134 films to be screened as part of the Leeds International Film Festival. Of those films the Licensing Authority had been provided with advance screeners for three only, requesting classifications less than 18.

The remaining films, including 'On Our Doorstep', had been classified 18 rating in accordance with their policy in which if the advance screening of a film was not

available, then Leeds City Council's Licensing Sub-Committee was required to classify them as an 18 rating.

The Chairman asked Mr Offord if he had any representations to make to the Sub-Committee regarding the classification of the Film. Mr Offord stated that the 12A classification which had been suggested was what he would have expected the film to be granted. He further explained that the film had been produced by a local filmmaker from Harwich and that the Electric Palace wanted to support him. The film was due to be shown as part of Refugee Week on 19<sup>th</sup> June 2022. The film had been shown at a number of other film festivals across the country.

Members were then invited to ask Mr Offord questions and he was asked by a Member why the film had not been classified as a documentary. He explained that, in order for the Electric Palace to be able to show the film, it had to be classed as a film and therefore it had to obtain a classification. He explained that a film classified as 12A would mean that parents would make the decision as to whether the film was suitable for a 12 year old.

Members asked if the film was likely to be shown in schools and Mr Offord said that Mr Laurance was in discussions with the local secondary school in Harwich.

Following discussion, it was moved by Councillor Coley, seconded by Councillor Casey and:-

**RESOLVED** that the application be approved and that the film be classified as 12A.

**13. EXCLUSION OF PRESS AND PUBLIC**

It was moved, seconded, and:-

**RESOLVED** – That under Schedule 100a(4) of the Local Government Act 1972, the public be excluded from the meeting for the item of business to be considered below on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act:-

Exempt Minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 4 May 2022.

**14. EXEMPT MINUTES OF THE LAST MEETING**

The exempt minutes of the meeting of the Sub-Committee held on 4 May 2022 were approved as a correct record and signed by the Chairman.

The meeting was declared closed at 10.28 am

**Chairman**

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,  
HELD ON FRIDAY, 8TH APRIL, 2022 AT 1.30 PM  
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,  
CO15 1SE**

<b>Present:</b>	Councillors Casey, McWilliams and Turner
<b>Also Present:</b>	Jonathan Smith – Poppleston Allen, Solicitors (representing Park Resorts Limited), Andy Kemp (Licensing Manager - Park Resorts Limited) and Tom Joyce (General Manager, Naze Marine Caravan Park)
<b>In Attendance:</b>	Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Debbie Bunce (Legal and Governance Administration Officer) and Lisa Tann (Licensing Technical Officer)

**48. CHAIRMAN FOR THE MEETING**

It was moved by Councillor McWilliams, seconded by Councillor Turner and:

**RESOLVED** – That Councillor Casey be elected as Chairman for the meeting.

**49. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence, or substitutions.

**50. DECLARATIONS OF INTEREST**

There were none.

**51. REPORT OF ASSISTANT DIRECTOR, PARTNERSHIPS - A.1 - APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - NAZE ARMADA, NAZE MARINE CARAVAN PARK, HALL LANE, WALTON-ON-THE-NAZE, ESSEX**

The Chairman, Councillor Casey welcomed everyone to the meeting and made introductory remarks.

The Council's Licensing Manager (Michael Cook) then gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in Item A.1 of the Report of the Assistant Director, Partnerships, an application for the variation of a Premises Licence in respect of the Naze Armada, Naze Marine Caravan Park, Hall Lane, Walton-on-the-Naze, CO14 8HL.

The Sub-Committee had been informed that this application had been made under the Licensing Act 2003 for the variation of the Premises Licence and thereby to increase the opening hours, and the permitted hours for the sale of alcohol and regulated entertainment. In addition, the current layout plans would be amended with two further

external areas added to the licensed area which were both directly outside the entertainment complex.

Section 2.1 of the Officer's written report set out a general description of the premises which was as follows:

"The premises was previously describe as a caravan holiday park with club room and bar with facilities for the sale of alcohol. The park also has facilities for the provision of food, drink and entertainment".

Section 2.2 of the written report set out the current opening hours which were as follows:

Monday to Sunday 00:00 - 00:00

**SHOP PREMISES ONLY**

Monday to Sunday 08:00 - 23:00

Sections 3.0 and 3.1 of the written report set out the current and proposed licensable activities which were as follows:

**Current Licensable Activities – Permitted Hours**

**Exhibition of a Film**

Monday to Thursday	10:00 - 00:00	(Indoors)
Fridays and Saturdays	10:00 - 00:30	(Indoors)
Sunday	10:00 - 00:00	(Indoors)
Monday to Sunday	14:00 - 23:00	(Outdoors)

**Indoor Sporting Event**

Monday to Thursday	10:00 - 00:00
Fridays and Saturdays	10:00 - 00:30
Sunday	10:00 - 00:00

**Performance of Live Music**

Monday to Thursday	10:00 - 00:00	(Indoors)
Fridays and Saturdays	10:00 - 00:30	(Indoors)
Sunday	10:00 - 00:00	(Indoors)
Monday to Sunday	11:30 - 19:00	(Outdoors)

**Performance of Recorded Music**

Monday to Thursday	10:00 - 00:00	(Indoors)
Fridays and Saturdays	10:00 - 00:30	(Indoors)
Sunday	10:00 - 00:00	(Indoors)
Monday to Sunday	11:30 - 19:00	(Outdoors)

**Performance of Dance**

Monday to Thursday	10:00 - 00:00	(Indoors)
Fridays and Saturdays	10:00 - 00:30	(Indoors)
Sunday	10:00 - 00:00	(Indoors)
Monday to Sunday	11:30 - 19:00	(Outdoors)

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**Other Entertainment falling within Act**

Monday to Thursday	10:00 - 00:00	(Indoors)
Fridays and Saturdays	10:00 - 00:30	(Indoors)
Sunday	10:00 - 00:00	(Indoors)
Monday to Sunday	11:30 - 19:00	(Outdoors)

**Provision of facilities for making music**

Monday to Thursday	10:00 - 00:00	(Indoors)
Fridays and Saturdays	10:00 - 00:30	(Indoors)
Sunday	10:00 - 00:00	(Indoors)

**Provision of facilities for dancing**

Monday to Thursday	10:00 - 00:00	(Indoors)
Fridays and Saturdays	10:00 - 00:30	(Indoors)
Sunday	10:00 - 00:00	(Indoors)

**Late Night Refreshment**

Monday to Thursday	23:00 - 00:00	(Indoors)
Fridays and Saturdays	23:00 - 00:30	(Indoors)
Sunday	23:00 - 00:00	(Indoors)

**Sale of Alcohol on and off the premises**

Monday to Thursday	10:00 - 00:00
Fridays and Saturdays	10:00 - 00:30
Sunday	10:00 - 00:00

**Boxing or Wrestling**

Monday to Sunday	09:00 - 23:00	Club House Only
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**SHOP PREMISES ONLY**

**Sale of Alcohol off the premises**

Monday to Sunday	08:00 - 23:00
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**ACTIVITIES – PROPOSED PERMITTED HOURS**

**Opening Hours**

Mondays to Sundays 00:00 – 24:00

**SHOP PREMISES ONLY**

Mondays to Sundays 08:00 - 23:00

**Provision of Plays**

Mondays to Sundays 10:00 – 02:00 (Indoors)  
10:00 – 23:00 (Outdoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**Provision of Films**

Mondays to Sundays 10:00 – 02:00 (Indoors)  
10:00 – 23:00 (Outdoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**Provision of Indoor Sporting Events**

Mondays to Sundays 10:00 – 02:00 (Indoors)

**Provision of Boxing or Wrestling Entertainments**

Mondays to Sundays 10:00 – 02:00 (Indoors)  
10:00 – 23:00 (Outdoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**Provision of Recorded Music**

Mondays to Sundays 10:00 – 02:00 (Indoors)  
10:00 – 23:00 (Outdoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**Provision of Performances of Dance**

Mondays to Sundays 10:00 – 02:00 (Indoors)  
10:00 – 23:00 (Outdoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**Provision of anything of a similar description to live music, recorded music, or performances of dance**

Mondays to Sundays 10:00 – 02:00 (Indoors)  
10:00 – 23:00 (Outdoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**Provision of Late Night Refreshment**

Mondays to Sundays 23:00 – 02:00 (Indoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**Supply of Alcohol on and off the premises**

Mondays to Sundays 10:00 – 02:00 (Indoors)  
10:00 – 23:00 (Outdoors)

Non Standard Timings

An additional hour to the standard and non-standard timings on the day when British Summer Time commences.

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

**SHOP PREMISES ONLY**

**Sale of Alcohol off the premises**

Mondays to Sundays 08:00 - 23:00 (No Variation to existing hours  
already in place)

The applicant also stated the steps that they proposed to take to promote the statutory licensing objectives and those steps were detailed in Sections 4.1 to 4.5 inclusive of the Officer report.

Members were further informed that one letter of representation/objection had been received from the local Councillor in relation to this application. No representations had been received from any of the Responsible Authorities.

The Sub-Committee had before it for its information the relevant extracts from the Council's Statement of Licensing Policy in respect of planning considerations and the statutory 'Prevention of Public Nuisance' Licensing Objective.

Members also had before them for their assistance the policy considerations and relevant paragraphs from the Home Office's Section 182 Guidance that accompanied the Licensing Act 2003 in respect of the following –

- (1) Prevention of Public Nuisance
- (2) Prevention of Crime and Disorder; and
- (3) Planning and Building Control Guidance

Members also had before them the Application Form and supporting documentation, a location plan and a copy of the representation/objection letters.

The Chairman invited the Applicant, Park Resorts Limited to give its representations to the Sub-Committee.

The Applicant, (Park Resorts Limited) were represented by Jonathan Smith of Poppleston Allen Solicitors. Mr Tom Joyce, the Designated Premises Supervisor and General Manager for the Naze Marine Caravan Park was also in attendance, together with Andy Kemp, the Licensing Manager for Park Resorts Limited.

Mr Smith addressed the Sub-Committee and advised that the application was to vary the hours of the Premises Licence for indoor and outdoor activities and to change the layout plan to include two new outside entertainment areas. He referred the Sub-Committee to the plans on pages 50 and 51 of the Officer Report and state that the plan on page 51 was an overview of the Caravan Park with the hatched areas being the areas that were licensed for outdoor entertainment. Currently the outside areas were licenced for licensable activities until 7.00 p.m. but a change of hours to 11.00 p.m. was now being requested. Mr Smith advised that he understood the objector, Councillor Miles, was happy with those hours. The Applicant wished to be able to offer "Movie's under the Stars" and other entertainment outside by licensing the two additional outdoor areas. He also advised that the hours and licensable activities of the two hatched areas outside which were already licensed were to remain the same as the current licence.

Mr Smith advised that £2 million was being spent on the Park with £1 million on areas around the entertainment complex. There would be a covered outside seating area and stage area, plus the Horseshoe Bar and two retail units in order to provide more choice for guests. The Applicant was looking to introduce outdoor entertainment, which was partially due to the pandemic when it had become apparent that guests preferred to sit outside. The outside stage would be used during the day time for children's entertainment and for live singers in the evenings who would finish at around 10.00 p.m.

Mr Smith advised that an Acoustic Report had been submitted (and which had been included in the report to the Sub-Committee). He explained that the background noise levels had been measured at the residential premises nearest to the site. That level had set the level of noise that could then be produced on the stage. He advised that all amplified music went through a noise limiter.

Mr Smith advised that a Licence was needed to sell alcohol outside from 10.00 am. until 10.00 p.m. The later hours were for the areas marked red on the plan included in the report.

The Chairman asked if any Members had questions that they would like to ask Mr Smith.

Mr Smith was asked whether the trees along the boundary line of the park were still in existence and the Sub-Committee was advised that they were.

Mr Smith was asked about the hours requested in respect of the indoor premises and he advised that, at the present time, the premises were licenced until Midnight Sundays to Thursdays and until 12.30 a.m. on Fridays and Saturdays and that the Applicant was applying to extend the hours until 2.00 a.m.

Mr Smith said that the objection that had been received had stated that there should be parity with other nearby premises but he advised that other premises nearby were licensed for 12 midnight or 1.30 a.m. and that currently the Park did not have those hours. The Licence Conditions only allowed the Applicant to sell alcohol to residents on the Park. Access to the Park was controlled by Security Guards and residents had to have a pass to gain entry to the Park. The Park had operated until 12 midnight or 12.30 a.m. for some time and had never had any complaints.

Mr Smith advised that 70% of the caravans were occupied by people who owned those caravans.

Mr Smith pointed out that there had been no objections received from the Responsible Authorities. He advised that there was air conditioning in the indoor areas so that there was no need to open doors and that there was also a noise limiter in the Show Bar. He reiterated that the park was not open to the general public. There were up to three or four security personnel on duty at night.

Members asked where the nearest residents were and Mr Smith explained that where the noise measurements had been taken for the acoustic report the levels had to be a maximum of 88db during the day and 85db in the evening but that they would not, in fact, exceed 85db at any time. Those measurements had been taken at the property nearest to the boundary of the Park.

Mr Smith was asked whether there was security on site 24 hours a day and he confirmed that there was. There was a 24 hour barrier at the entrance to the site with an intercom for residents use.

Mr Smith was asked whether the Designated Premises Supervisor (DPS) (who is also the General Manager of the Park) lived on site and the Sub-Committee were advised that the DPS lived off site in Colchester. Mr Smith was asked who was responsible for the licensed areas when the DPS was not present and he advised that in addition to the DPS, there was also a Complex Manager and bar supervisors who are well trained to serve alcohol. Mr Kemp confirmed that the Complex Manager was in overall charge when the DPS was not present and that role is the second in charge after the General Manager. Mr Kemp also advised that they were currently recruiting to the role of Complex Manager and this role was usually a personal licence holder as well.

The Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then withdrew from the meeting in order for the Sub-Committee to consider the application and to reach a decision.

After a period of time, the Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer then returned to the meeting.

The Chairman of the Sub-Committee then read out the following decision:

1. The Sub Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the Applicant, the representations received from residents along with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.
2. The decision of the Sub-Committee is to grant this application in full subject to a Designated Premises Supervisor or a Personal Licence holder being on duty whilst the licensed premises/areas are open.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have the right of appeal to the Magistrates' Court.

This Decision was made today, 8 April 2022 and will be confirmed in writing to all parties.

The meeting was declared closed at 2.35 pm

**Chairman**

## LICENSING AND REGISTRATION COMMITTEE

8 SEPTEMBER 2022

### REPORT OF THE DEPUTY CHIEF EXECUTIVE

#### A.1 LICENSING ACT 2003 - APPLICATIONS APPROVED UNDER DELEGATED POWERS [Report prepared by Michael Cook]

(i) **Premises Licences/Club Premises Certificates**

Set out in Appendix A to this report are details of licences that have been approved under Delegated Powers during the period 4 January 2022 to 31 August 2022.

(ii) **Personal Licences**

A total of 2388 Personal Licences have been approved under Delegated Powers since 7 February 2005, the 'First Appointed Day'.

(iii) **Gambling Licences/Permits**

Below is a table showing the number of gambling licences and permits that are licensed with this Authority.

Type of Licence	Number of Licences as at 31 August 2022
Adult Gaming Centres	21
Betting Premises	12
Bingo Premises	12
Family Entertainment Centres	54
Unlicensed Family Entertainment Centres	29
Prize Gaming Permits	2
Club Gaming & Club Machine Permits	23
Licensed Premises Gaming Machine Permits	117
Licensed Premises Machine Notifications	25
Small Society Lottery Permits	105

(iv) **Hackney Carriage/Private Hire Licence**

Below is a table showing the number of drivers, vehicles and operators that are licensed with this Authority.

Type of Licence	Number of Licences as at 31 August 2022
Hackney Carriage Driver	277
Private Hire Driver	7
Hackney Carriage Vehicle	216
Private Hire Vehicle	27
Private Hire Operator	22

**RECOMMENDED:** That Members note the contents of this report.

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Uniform Ref No	Organisation	Address	Type of application	Date Delegation Exercised
21/00587/PREMVA	Pier Hotel	The Quay Harwich Essex CO12 3HH	Premises Licence Variation	06-Jan-22
22/00018/PREMGR	China City	7 Old Pier Street Walton On The Naze Essex CO14 8AW	Premises Licence Grant	15-Feb-22
22/00038/PREMVA	The Trafalgar Public House	The Trafalgar Public House 616 Main Road Dovercourt Essex CO12 4LW	Premises Licence Variation	22-Feb-22
22/00042/PREMGR	The Beehive	Heath Road St Osyth Clacton On Sea Essex CO16 9BS	Premises Licence Grant	14-Mar-22
22/00051/PREMGR	UnSealed Eco Refill Store	2A The Grove Clacton On Sea Essex CO15 1TJ	Premises Licence Grant	17-Mar-22
22/00118/PREMTR	The Old Courthouse Inn	The Old Courthouse Inn Harwich Road Great Bromley Colchester Essex CO7 7JG	Premises Licence Transfer	17-Mar-22
22/00085/PREMVA	Booker Cash & Carry	1A Oakwood Business Park Stephenson Road West Clacton On Sea Essex CO15 4TL	Premises Licence Variation	21-Mar-22

22/00068/PREMGR	Beach adjacent to Kiosk	Kiosk East Terrace Walton On The Naze Essex CO14 8PY	Premises Licence Grant	30-Mar-22
22/00076/PREMGR	Bruff Cafe	29 The Parade Walton On The Naze Essex CO14 8EA	Premises Licence Grant	30-Mar-22
22/00056/PREMGR	Mill Farm	Mill Farm Brightlingsea Road Thorrington Colchester Essex CO7 8JJ	Premises Licence Grant	30-Mar-22
22/00082/PREMVA	Show Bar And Mash And Barrel	Orchards Holiday Village Colne Way Point Clear Bay St Osyth Clacton-on-Sea Essex CO16 8LJ	Premises Licence Variation	01-Apr-22
22/00084/PREMGR	Joywheel	9 Pier Avenue Clacton On Sea Essex CO15 1QB	Premises Licence Grant	01-Apr-22
22/00058/CLUBPR	Upper Dovercourt Social Club	618 Main Road Harwich Essex CO12 4LS	Club Premises Licence	08-Apr-22
22/00131/PREMGR	Morrisons Store and Petrol Filling Station	Morrisons Supermarket Centenary Way Clacton On Sea Essex CO16 9SB	Premises Licence Grant	21-Apr-22

22/00247/PREMVA	Naze Armada	Naze Marine Caravan Park Hall Lane Walton-on-the- Naze Essex CO14 8HL	Premises Licence Variation	05-May-22
22/00247/PREMVA	Naze Armada	Naze Marine Caravan Park Hall Lane Walton-on-the- Naze Essex CO14 8HL	Premises Licence Variation	05-May-22
22/00168/PREMGR	Clacton Classic Car Club	Plough Corner Recreational Ground Plough Corner Little Clacton Essex	Premises Licence Grant	05-May-22
22/00258/PREMTR	Brace Of Pistols	421 St. Johns Road Clacton-on-Sea Essex CO16 8DU	Premises Licence Transfer	12-May-22
22/00255/PREMTR	Kiosk 2	Kiosk No 2 Kings Promenade Clacton On Sea Essex CO15 1QN	Premises Licence Transfer	12-May-22
22/00246/PREMTR	Keto Bite (Previously known As Hat and Mouse)	34 Connaught Avenue Frinton On Sea Essex CO13 9PR	Premises Licence Transfer	12-May-22
22/00255/PREMTR	Kiosk 2	Kiosk No 2 Kings Promenade Clacton On Sea Essex CO15 1QN	Premises Licence Transfer	12-May-22
22/00215/PREMTR	Rosebank Park Extra Care Unit	Rosebank Park Main Road Harwich Essex CO12 4FY	Premises Licence Transfer	13-May-22

22/00277/PREMTR	McColls	102 - 104 Frinton Road Holland-on-Sea Clacton-on-Sea Essex CO15 5UR	Premises Licence Transfer	18-May-22
22/00266/PREMTR	Morrisons Daily (Previously known As McColls)	35 The Street Little Clacton Clacton-on-Sea Essex CO16 9LD	Premises Licence Transfer	18-May-22
22/00276/PREMTR	Morrisons Daily	52 - 54 North Road Clacton On Sea Essex CO15 4DD	Premises Licence Transfer	18-May-22
22/00278/PREMTR	Ye Olde Cherry Tree Inn	Ye Olde Cherry Tree Inn Clacton Road Little Oakley Harwich Essex CO12 5JH	Premises Licence Transfer	18-May-22
22/00193/PREMGR	Blackwater Farm Office	Blackwater Farm Lee Wick Lane St Osyth Clacton On Sea Essex CO16 8ES	Premises Licence Grant	20-May-22
22/00279/PREMTR	Kiosk 1	Kiosk No 1 Kings Promenade Clacton On Sea Essex CO15 1QN	Premises Licence Transfer	20-May-22
22/00290/PREMTR	Beaumont House	Arthur Ransome Way Walton On The Naze Essex CO14 8FA	Premises Licence Transfer	23-May-22
22/00285/PREMTR	Kiosk 8	Kiosk No 8 Lower Marine Parade East Holland On Sea Essex CO15 1QN	Premises Licence Transfer	23-May-22

22/00263/PREMTR	Morrisons Daily	4 Tudor Parade Jaywick Essex CO15 2PL	Premises Licence Transfer	23-May-22
22/00290/PREMTR	Beaumont House	Arthur Ransome Way Walton On The Naze Essex CO14 8FA	Premises Licence Transfer	23-May-22
22/00263/PREMTR	Morrisons Daily	4 Tudor Parade Jaywick Essex CO15 2PL	Premises Licence Transfer	23-May-22
22/00295/PREMTR	7 Old Road	7 Old Road Frinton On Sea Essex CO13 9DA	Premises Licence Transfer	25-May-22
22/00223/PREMGR	Lounge	Atlanta Building Kings Promenade Clacton On Sea Essex CO15 1FS	Premises Licence Grant	25-May-22
22/00221/PREMGR	The Hair & Beauty Bar 466	466 Main Road Harwich Essex CO12 4ES	Premises Licence Grant	25-May-22
22/00240/PREMVA	Thrive Outdoor Limited	Wild Gym Devereux Farm Walton Road (Island Lane) Kirby Le Soken Essex CO13 0DA	Premises Licence Variation	27-May-22
22/00310/PREMTR	Bhavin Express	53 Carnarvon Road Clacton On Sea Essex CO15 6QB	Premises Licence Transfer	01-Jun-22
22/00326/PREMTR	Cafe Rio	23 High Street Manningtree Essex CO11 1AG	Premises Licence Transfer	15-Jun-22

22/00289/PREMTR	Regency Cottage Restaurant	41 Rosemary Road Clacton-on-Sea Essex CO15 1PA	Premises Licence Transfer	23-Jun-22
22/00289/PREMTR	Regency Cottage Restaurant	41 Rosemary Road Clacton-on-Sea Essex CO15 1PA	Premises Licence Transfer	23-Jun-22
22/00362/PREMTR	Skylark Social Limited (Previously Prettyfields Vineyard)	Dead Lane Ardleigh Colchester Essex CO7 7PF	Premises Licence Transfer	13-Jul-22
22/00374/PREMTR	The Royal Oak Inn	Royal Oak Inn 226 Main Road Harwich Essex CO12 3PL	Premises Licence Transfer	18-Jul-22
22/00342/PREMVA	The McGrigor Hall - Frinton-on-sea Woman's Institute	McGrigor Hall Fourth Avenue Frinton-on-Sea Essex CO13 9EB	Premises Licence Variation	25-Jul-22
22/00418/PREMTR	Unique Cafe And Restaurant	11 Pallister Road Clacton On Sea Essex CO15 1PQ	Premises Licence Transfer	02-Aug-22
22/00392/PREMTR	Bockings Elm Post Office	Bockings Elm Post Office 417 St. Johns Road Clacton-on-Sea Essex CO16 8DU	Premises Licence Transfer	04-Aug-22
22/00366/PREMVA	Holiday Inn Amusements	Seaview Road St Osyth Clacton On Sea Essex CO16 8SH	Premises Licence Variation	15-Aug-22
22/00436/PREMVA	Properfest	Car Boot Sale Site Hawk Fruit Farm Colchester Road Weeley Essex CO16 9AG	Premises Licence Variation	31-Aug-22

## LICENSING AND REGISTRATION COMMITTEE

8 SEPTEMBER 2022

### REPORT OF THE DEPUTY CHIEF EXECUTIVE

#### **A.2 PROCEDURES FOR HACKNEY CARRIAGE FARE SCALE**

(Report prepared by Michael Cook & Keith Simmons)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

As requested by this Committee at its 21 July 2022 (Minute 123 refers), this report sets out possible proposals for amending the delegations within the Council for considering (in the future) possible changes in the Hackney Carriage Fare Scale that applies in the District. The Committee is invited to consider the possible proposals and, if satisfied with them, to approve the recommendations below.

##### **EXECUTIVE SUMMARY**

At the Committee's meeting on 21 July 2022, consideration was given to two requests to amend the Hackney Carriage Fare Scale applicable across the District. The requests for the amendments had been received on 16 June and 20 June respectively. One request was then withdrawn and this left the other request. This request was agreed to by the Committee who authorised the necessary public notice to be given. No representation was received in the prescribed period (no less than 14 days) following the Public Notice. Consequently, the Hackney Carriage Fare Scale (as amended) then came into effect immediately following the end of the 14 days stated in the Public Notice.

In considering the request for an amendment to the Hackney Carriage Fare Scale, the Committee considered that there should not be any unnecessary delays between a request being submitted and it being considered (and any amendment approved). On this basis, the Committee resolved that "options for revising the constitutional provisions relating to the consideration of Hackney Carriage Fare Scale change requests be submitted to a future meeting of the Committee."

By way of background, the legal framework for setting Hackney Carriage Fare Scales by District Councils is set out in the Local Government (Miscellaneous Provisions) Act 1976, Section 65. It reads as follows:

*"(1)A district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section.*

*(2)(a)When a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which*

*and the manner in which objections to the table of fares or variation can be made.*

*(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice, and shall at all reasonable hours be open to public inspection without payment.*

*(3) If no objection to a table of fares or variation is duly made within the period specified in the notice referred to in subsection (2) of this section, or if all objections so made are withdrawn, the table of fares or variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.*

*(4) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections.”*

The legislation does not prescribe whether a decision to fix/amend hackney carriage fare Scales must be made by Council, a Committee, Sub-Committee or an Officer. As such, and by virtue of Section 101 of the Local Government Act 1972, it is for the District Council to make its own arrangements for the discharge of this function.

At present, the Council's constitution provides for the function of fixing/amending the Hackney Carriage Fare Scale for the District to be delegated to this Committee. Practically therefore, when a request is made by Hackney Carriage trade associations or groups of Licensees, Officers will arrange for the Committee to sit to determine if they wish to accept the request, amend the Fare Scale and invite representations from the trade and public. Should any representations be received, another meeting has to be arranged for the Committee to consider them and determine whether to confirm, or not, the new Fare Scale.

Should the Committee wish for streamlining the process, the Committee would need to consider a new process/delegation for recommendation. As referenced at the 21 July 2022, any decision could be submitted then to the Constitution Review Working Party. A proposal could be submitted directly by this Committee to Council. However, the route through the Constitution Review Working Party would enable any changes to be implemented along with any others in a consistent timeframe and in accordance with Article 15.

Set out at Appendix A to this report are possible proposals for amending the delegations within the Council for considering (in the future) requests to amend the Hackney Carriage Fare Scale that applies in the District. These changes would envisage such requests being determined by Officers following consultation with the Chairman of the Committee. If approved, public notice would be given and, after the prescribed period (no less than 14 days), they would take effect. If representations were received in response to the public notice (within the prescribed period), the proposal and representations would be submitted to this Committee to review and determine whether the proposed changes were to proceed.

## **RECOMMENDATION**

- a) That the Committee considers the proposals for amending the delegations within the Council for determining (in the future) possible changes in the Hackney Carriage Fare Scale that applies in the District (as set out in this report and Appendix A to it); and
- b) That, subject to approving the proposals in respect of (a) above, the Committee recommends the proposals to the Constitution Review Working Party of the Council for incorporation with other proposals for changes to the Constitution.

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

The Council's Corporate Plan 2020-24 includes the theme of "Effective and positive Governance". Keeping the delegation arrangements for functions within the sphere of the Committee supports that theme.

### **FINANCE, OTHER RESOURCES AND RISK**

#### **Finance and other resources**

None at this time.

#### **Risk**

The greatest risk in respect of this matter is that the process set out in law is not followed correctly and therefore additional costs and reputational damage arises. The steps set out in this report seek to militate that risk.

### **LEGAL**

If the Committee was minded to authorise a change in streamlining the process of the Hackney Carriage Fare Scale, the Council must follow the procedures in accordance with the provisions of Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

Article 15 of the Council's Constitution states at 15.02(a) any proposals for changes to the Constitution arising from a review of the Constitution whether it be initiated by the Monitoring Officer or a resolution by a member body, will be reported to the Cabinet via the Portfolio Holder with responsibility for corporate governance, which in turn will make recommendations to the Council.

Councillor G. Guglielmi as Portfolio Holder for Corporate Finance and Governance holds a cross-party Constitution Review Working Party on an annual basis, and is due to commence its review in October 2022.

The proposal of delegating such decisions to an Officer in consultation with the Chairman of the Committee is in line with the practice adopted for Fees and Charges setting for Executive functions, which is undertaken by Assistant Directors in consultation with the relevant Portfolio Holder.

As with all delegations to Officers paragraph 7 of Schedule 2 in Part 3 of the Constitution (Part 3.6 - Green) states that *“the delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for Officers to refer matters to the relevant decision making body, where it is felt that this is appropriate due to the nature of the issue”*.

#### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

#### **CRIME AND DISORDER**

There are no Crime and Disorder implications

#### **EQUALITY AND DIVERSITY**

There are no Equality and Diversity implications arising from this report. However, the Committee will need to have regard to the Public Sector Equality duty when it assesses the requests submitted to it.

#### **CONSULTATION AND PUBLIC ENGAGEMENT**

None at this time, consideration would need to be taken by the Constitution Review Working Party.

#### **AREAS/WARDS AFFECTED**

All wards

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

None

#### **CONCLUSION**

The Committee has requested “options for revising the constitutional provisions relating to the consideration of Hackney Carriage Fare Scale change requests be submitted to” it and this report invites the Committee to consider the possible proposals set out.

#### **BACKGROUND PAPERS FOR THE DECISION**

None

#### **APPENDIX**

Appendix A - Current Terms of Reference & Delegated Powers of the Licensing & Registration Committee (with proposals shown in red for changes concerning the fixing/amending of Hackney Carriage Fare Scales)

**CURRENT TERMS OF REFERENCE & DELEGATED POWERS OF THE LICENSING & REGISTRATION COMMITTEE (WITH PROPOSALS SHOWN IN RED FOR CHANGES CONCERNING THE FIXING/AMENDING OF HACKNEY CARRIAGE FARE SCALES)**

Committee	Functions and Terms of Reference	Delegated Functions
<p><b>Licensing and Registration Committee</b></p>	<p><i>Functions relating to licensing, registration (B), Health and Safety at Work (C) and Smoke-free premises (FA) as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p><b>Additional roles and functions of the Committee are as set out below:</b></p> <ul style="list-style-type: none"> <li>• <span style="color: red;">Setting the Hackney Carriage Fare Scale operating within the District.</span></li> <li>• <span style="color: red;">Deciding whether to make a change to the Hackney Carriage Fare Scale operative within the Tendring District having considered the representations received in response to the Public Notice duly given pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976;</span></li> <li>• Recommending the Licensing and Gambling Policy Statements and Sex Establishment Policy to full Council;</li> <li>• Power to consider, consult and consider representations in respect of an Early Morning Restriction Order (EMRO) under Sections 172A to 172E of the Licensing Act 2003 and to recommend implementation or rejection of application for EMRO to Full Council; and</li> <li>• Power to consult and consider representations in respect of Late Night Levy (LNL) Provisions under Chapter 2 of</li> </ul>	<ol style="list-style-type: none"> <li>1. All licensing and registration functions are delegated to the Miscellaneous Licensing Sub-Committee or the Premises/Personal Licences Sub-Committee as detailed below and otherwise the Assistant Director (Partnerships Governance-) except determining licensing conditions and criteria and commenting on proposed policies, which remain with the Committee.</li> <li>2. All functions relating to Health and Safety at Work and Smoke Free Premises are delegated to the Corporate Director (Operations and Delivery).</li> <li><span style="color: red;">3. The initial, in principle, consideration of a proposal received for a change to the Hackney Carriage Fare Scale operative within the District and decision to give public notice (pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976) of</span></li> </ol>

	<p>Part 2 of the Police Reform and Social Responsibility Act 2011 and to recommend implementation or rejection of an application to introduce LNL to Full Council.</p> <p><i>The discharge of the following <b>Part II – Miscellaneous Functions</b> as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none"> <li>• Power to make closing order with respect to take away food shops; and</li> <li>• Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.</li> </ul> <p>In addition the following powers and duties:</p> <ul style="list-style-type: none"> <li>• The setting of any fees and/or charges payable to the Council for the issue of any licences (with the exception under the Scrap Metal Act 2013) or otherwise in relation to any of the functions falling within the remit of the Licensing Committee and various Sub-Committees.</li> </ul>	<p><b>the Council’s intention to amend the Fare Scale is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</b></p> <p><b>4. The final approval and implementation of the amended Hackney Carriage Fare Scale in the circumstances where no representations have been received in response to the public notice referred to in 3 above is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</b></p>
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## LICENSING AND REGISTRATION COMMITTEE

8 SEPTEMBER 2022

### REPORT OF THE DEPUTY CHIEF EXECUTIVE

**A.\* REVIEW OF THE COUNCIL'S LICENSING ACT 2003 STATEMENT OF LICENSING POLICY**

(report prepared by Michael Cook & Keith Simmons)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

This report submits for the Committee's consideration a proposed revised Statement of Licensing Policy (at Appendix A to this report – with tracked changes). The proposed revised Statement is submitted following a recent 28-day period of consultation on a draft revised Statement. Essex Police (on behalf of the Chief Constable) made comments during the consultation period. These are set out below in the 'Current Position' section of the report. The submitted revised Statement of Licensing Policy reflects changes based on feedback from the Committee at its meeting on 21 July and the submission from Essex Police.

At present, the Council does not have a valid Statement of Licensing Policy at the term of its last Statement was expired on 9 January 2022.

##### **EXECUTIVE SUMMARY**

The Council is required to determine its Statement of Licensing Policy every five years in accordance with the Section 5 of the Licensing Act 2003 (as amended by the Police Reform and Social Responsibility Act 2011 and by the Policing and Crime Act 2017) ('the 2003 Act'). The Council last adopted a Statement of Licensing Policy in 2016 and was for the period 2016-21. As such, to comply with its legal duty under Section 5 of the 2003 Act, the Council is seeking to develop and adopt a new Statement as soon as practicable.

The 2003 Act states that a Council's Statement of Licensing Policy will set out the Council's policy with respect to the exercise of its licensing functions within the 2003 Act. Before determining its Statement of Licensing Policy, the Licensing Authority must consult with those set out in the 2003 Act. The Committee, at its meeting of the 21 July 2022 (Minute 124 refers), authorised the necessary consultation and a draft revised Statement for that purpose. The Committee provided feedback on the draft revised Statement and, during the consultation period, comments were received from Essex Police (on behalf of the Chief Constable). The submitted proposed revised Statement of Licensing Policy seeks to reflect the feedback and comments referred to. The Committee is requested to consider the comments received from Essex Police and the proposed revised Statement of Licensing Policy submitted (at Appendix A to this report). The Appendix has tracked changes from the 2016 version of the Statement. The Essex Police comments are repeated in full in the 'Current position' section of this report. If satisfied, the Committee is invited to recommend the proposed revised Statement of Licensing Policy for adoption by Full Council at its meeting on 20 September 2022.

## RECOMMENDATION(S)

It is recommended that the Committee:

- a) **Considers the outcome of the consultation undertaken on a revised Statement of Licensing Policy as set out in this report;**
- b) **considers the report and, if satisfied, recommend to the Council that the revised Statement of Licensing Policy set out at Appendix A to this report be adopted for the period 2022-2027; and**
- c) **recommends this final draft of the Policy to Council for adoption at its meeting on 20 September 2022.**

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

A licensing authority, such as this Council, must carry out its licensing functions under this 2003 Act with a view to promoting the licensing objectives. The licensing objectives in the 2003 Act are –

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

In promoting the four licensing objectives, the Council (in its role as licensing authority) will also 'Deliver High Quality Services', assist in 'Building Sustainable Communities for the Future', have 'Strong Finances and Governance', support a 'Growing and Inclusive Economy' and provide 'Community Leadership through Partnerships'. These are the themes of the Council in its 2020-24 Corporate Plan.

### FINANCE, OTHER RESOURCES AND RISK

#### Finance and other resources

The cost of administration in terms of production, consultation and publication of the Council's Statement of Licensing Policy will be met within the current service budget.

#### Risk

The Council's must review its Statement of Licensing Policy and have it adopted and published. The fact that the five year period of the 2016 Statement of Licensing Policy has expired is a significant risk to the Council as, by implication, it has not met its duty to determine a new Policy prior to (6 January) 2021. It therefore undermines the general duty of the Council in Section 4 of the 2003 Act which requires the Authority (in carrying out its licensing functions) to have regard to its Statement of Licensing Policy. Accordingly, to comply with its legal duty under Section 5 of the 2003 Act, the Council is seeking to develop and adopt a new Statement as soon as practicable. In addition, measures have been put in place to prevent a repetition of the position in five years' time.

## LEGAL

Before determining its Statement of Licensing Policy, the Authority must consult with the following-

- (a) the chief officer of police for the authority's area,
- (b) the fire and rescue authority for that area,
- (ba) each Local Health Board for an area any part of which is in the authority's area,
- (bb) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the authority's 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.

By implication, the Council must consider fully any representations received from those consulted before determining its next Statement of Licensing Policy. Following determination, the Council must publish its Statement.

By virtue of Section 7(2) of the 2003 Act, the function of approving a Statement of Licensing Policy cannot be delegated from the Council itself to a Committee, Sub-Committee or Officer of the Council. As such, this Committee, through the recommendations set out above is invited to recommend adoption of a revised Statement. In this way, the Council itself will be in a position to exercise the function reserved to it through Section 7(2).

In general, in relation to carrying out its licensing functions, a licensing authority such as this Council, must have regard to any guidance issued by the Secretary of State under section 182 of the 2003 Act. This general requirement also applies to the development and content of its Statement of Licensing Policy. The current guidance from the Secretary of State was issued with effect from 6 April 2018. This guidance is available here - [Secretary of State's Guidance under Section 182 of the 2003 Act.](#)

The Guidance of the Secretary of State includes the following as Fundamental Principles for Councils, as licensing authorities, in relation to the content of the Statement of Licensing Policy for their respective areas:

*“14.9 All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of consultees.*

*14.10 While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.*

*14.11 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.*

*14.12 Statements of policies should make clear that:*

- *licensing is about regulating licensable activities on licensed premises, by*

- *qualifying clubs and at temporary events within the terms of the 2003 Act; and conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.*

*14.13 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.”*

## **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

### **CRIME AND DISORDER**

As set out earlier, two of the four licensing objectives under the 2003 Act are the Prevention of Crime and Disorder and the Prevention of Public Nuisance. The Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in its area. The Council’s Statement of Licensing Policy has been prepared with the intention to promote positively the four licensing objectives as a whole including the prevention of crime and disorder and the prevention of public nuisance in the District.

### **EQUALITY AND DIVERSITY**

The Licensing Authority will have due regard to the public sector equality duty under the Equality Act 2010. Under this duty, the Authority (in the exercise of its functions) must have due regard to the need to:

- eliminate any form of unlawful discrimination (including direct or indirect discrimination, harassment, victimisation, and any other conduct prohibited under the Act)
- advance equality of opportunity between people who share a relevant characteristic and people who do not
- foster good relations between people who share a protected characteristic and people who do not

The Secretary of State’s guidance under Section 182 of the 2003 Act provides as follows in respect of the Equality Act 2010:

*“14.66 A statement of licensing policy should recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.”*

## **AREA/WARDS AFFECTED**

All

## **CONSULTATION**

In addition to those the Authority must consult (referenced earlier in this report), the consultation also invited all Members of the Council, Town and Parish Council's, partnership and community groups, late night economy and business associations to comment on the draft policy. The consultation and draft policy have been available on the Council's web site for public comment from Friday 22 July 2022 to end of 18 August 2022. This was also advertised by public notice in the local press and at the Council offices with the public encouraged to actively participate in the review.

Further details of the consultation undertaken in relation to the Statement of Licensing Policy are provided in the 'Current Position' section below.

## **PART 3 – SUPPORTING INFORMATION**

### **BACKGROUND**

The Statement of Licensing Policy, under Section 5 of the 2003 Act, is intended to inform and guide applicants, licence holders and other interested parties such as Responsible Authorities, businesses, residents and Councillors as to how this Council (as the Licensing Authority under the 2003 Act) expects to administer applications submitted during the five years that the Policy is in force and how the Authority intends to promote the Licensing Objectives through its Policy.

At its meeting on 21 July 2022, this Committee approved undertaking the necessary steps to be undertaken to enable a proposed revised Statement of Licensing Policy to be submitted to this Committee for consideration for the period 2022-2027. This would then enable any recommendation for a revised Statement to be submitted to the Council meeting on 20 September 2022.

### **CURRENT POSITION**

The Committee is invited to consider the content of this report and the proposed revised Statement of Licensing Policy set out at Appendix A. This section of the report sets out the steps taken since the meeting of the Committee on 21 July 2022; including the consultation undertaken in respect of a revised Statement.

Public Consultation on a revised Statement of Licensing Policy for the District commenced on 22 July 2022. A page was created for the consultation on the Council's website, a public notice was placed in the local Gazette (and this in turn was used on its website) on 28 July. In addition, the public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton-on-Sea. Consultation responses were asked for by 18 August 2022.

The Chief Constable for Essex Police Area, Essex Fire and Rescue Authority, the Local Health Board for the area and Essex County Council (in respect of its public health functions) was consulted as prescribed in the 2003 Act. In addition, the Council's Planning Service and Environmental Health Service were consulted as were Essex County Council's Social Services (being the responsible authority for protection of children from

harm) and Essex Trading Standards.

The Consultation also included:

- representatives of holders of premises licences locally - 100 premises licensees were written to and this number spanned pubs, off licences, late night refreshment premises and night time economy;
- representatives of holders of club premises certificates locally - 40 Club Premises Certificate Holders premises
- representatives of holders of personal licences locally - 100 Designated premises supervisors of premises;
- representatives of businesses and residents locally – Agents/Solicitors who act for licensees, all 48 District Councillors, all 27 Parish/Town Councils in the District, 245 licensed taxi drivers within the District and a range of partner organisations such as in health, universities and community groups (including Citizens Advice Tending, Community Voluntary Services Tending and AgeUK) and business organisations such as the Federation of Small Businesses and Local Business Associations for Clacton, Frinton and Manningtree.

One response was received to the consultation, which was from Essex Police (on behalf of the Chief Constable). This was received on 12 August 2022 and was as follows:

*“The draft policy is endorsed with the following observations.*

1. *At the end of paragraph 1.2 – would it be possible to add something similar to “The Essex Police Licensing Team (details at Appendix C) particularly encourages pre-application dialogue with it and is prepared to suggest suitable conditions as part of an operating strategy”.*

2. *At paragraph 1.18 mention is made of the Licensing Enforcement Group – a reference I am unfamiliar with. I understand this may be an internal council forum and so a different form of wording may be more appropriate (or an explanation provided).*

3. *At paragraph 1.18 the text “their staff recognise the 9 September 2020 signs of child exploitations” appears – I am assuming that ‘9 September 2020’ should not be included in this wording?*

4. *At paragraph 3.7 references are made to a TEN being granted and notification being made to the applicant after 3 days. Temporary Event Notices are however not granted; they are a notification which the legislation and guidance is required to acknowledge as soon as possible. Where representations are subsequently made counter notices should be issued and (in the case of standard TENs) a hearing arranged. This sentence may therefore require some rewording (or removal) to avoid confusion.*

5. *At Appendix C – item 2. Can I ask that the contact details of Essex Police are slightly amended. If the e-mail address can be amended to [licensing.applications@essex.police.uk](mailto:licensing.applications@essex.police.uk) instead of [licensing.applications@essex.pnn.police.uk](mailto:licensing.applications@essex.pnn.police.uk); all UK police forces have now moved away from the .pnn network.*

6. *A general point – I wonder if it would assist if page numbers were added. Frequently at hearings, participants find it easier to locate specific items of text if a*

*page number also exists.”*

At the Committee’s meeting on 21 July, Councillors raised a number of matters in authorising the commencement of the process towards the adoption of a new Statement of Licensing Policy. These issues included the application of the EU Service Directive, misuse of illegal drugs and other substances, drink spiking awareness, temporary event notice acknowledgement, safety advisory group contact details, reference to of local pubwatch and modern day slavery, together with minor word changes within the policy.

In respect of point 6 of the Police comments above, page numbers will be used in the final published version of the Statement of Licensing Policy.

The proposed revised Statement of Licensing Policy set out at Appendix A seeks to reflect the above consultation response that have been received. The Committee is invited to consider it and, if appropriate, agree a final version to be recommended to Council for adoption at its meeting on 20 September 2022.

The timetable shown below is submitted to the Committee by way of information on the remaining stages of the review of the Statement of Licensing Policy.

<b>Key Event</b>	<b>Intended Outcome</b>
Licensing & Registration Committee 08 September 2022	Committee review outcome of consultation and agree final proposed content of statement and recommend it to Council.
Full Council - 20 September 2022	Full Council considers the recommendation to adopt the revised statement.
Policy to be published on Council’s web site following adoption by Full Council.	Policy published on website.
Public Notice of adoption to be published in local newspaper following Full Council adoption.	Public Notice published in newspaper.
Commencement of new policy	Policy runs from 2022 to 2027 (with any future administrative amendments as required by legislation).

In addition to the above comments, and in response to enquiries of Essex Police in respect of the concerns around drink spiking, the Police Licensing Manager advised on 15 August 2022:

*“The Essex Police Crime Registrar has provided no specific guidance on drink spiking that I am aware of (other than what national crime codes should be used) – reported offences are recorded against a number of offence types by our crime recording bureau who are well trained in the national standards. Offences are recorded as either administering poison/noxious thing to injure/annoy or administering a substance with intent.*

*Essex Police analysts research this data to create a crime pattern analysis.*

*[...]*”

The matter of drink spiking has recently been considered by Parliament’s Home Affairs Committee, and a more recent still response from Government to that Committee’s recommendations on the matter, For completeness, the links below are to the Home

Affairs Committee's report and to the Government's response to it:

[House of Commons Home Affairs Committee report on Spiking with recommendations to government](#)

[Government Response to the Home Affairs Committee's Report and Recommendations on Spiking](#)

**BACKGROUND PAPERS FOR THE DECISION**

None

**APPENDICES**

**APPENDIX A – Proposed Revised Statement of Licensing Policy 2022-2027 (with tracked changes to show the amendments from the 2016 version of the Statement).**

# Tendring District Council



## POLICY FOR DEALING WITH APPLICATIONS RECEIVED UNDER THE LICENSING ACT 2003

**2022-2027**

*Adopted 20 September 2022*  
Tendring District Council: [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

## FOREWORD

This is the ~~is the~~ ~~fifth~~ Statement of Licensing Policy (to be referred to in this document as the Licensing Policy or Policy) produced by Tendring District Council under the Licensing Act 2003 ('the 2003 Act'), as amended. Since the **original** adoption of the policy statement it has been amended to reflect the changes in the law, guidance and the circumstances in the District.

For example, the amendments have expanded the list of responsible authorities; allowed the imposition of additional mandatory conditions; removed the requirement for certain community premises to have a designated premises supervisor; provided a simplified procedure for minor variations to a premises licence or club premises certificate; provided a summary review procedure in cases of serious crime and disorder; provided new offences and powers in relation to underage sales, empowered local authorities to make early morning alcohol restriction orders; impose a Late Night Levy on premises open after midnight; implemented changes imposed by the Live Music Act, 2012; extended the rights of those who can make representations with regards to both applications and reviews; reduced the evidential burden on licensing authorities in regards to the promotion of the licensing objectives from "necessary" to "appropriate"; amended the limits and requirements of Temporary Event Notices and further de-regulated live music, recorded music and other entertainments. The term between adoption by the Licensing Authority of a revised Statement of Licensing Policy has also been extended from the original three years to every five years..

This ~~fifth~~ policy statement will come into effect from **1 October 2022** and sets out the general approach the Authority will be taking when making licensing decisions during the next five year period up to **30 September 2027**. The Policy has been the subject of public consultation before its adoption and publication by the Council.

This Policy therefore explains how the Council, acting in its capacity as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that local residents, businesses, visitors to the District and local communities need and expect. References in this Statement of Licensing Policy to the Licensing Act 2003 are references to the 2003 Act as amended.

The Council (as the Licensing Authority) recognises its key role in dealing with alcohol related crime and disorder and anti-social behaviour issues and by working closely with our partner organisations such as the Police to promote the licensing objectives, it has achieved some notable successes in this area and will continue to work to do so. Therefore while it is entirely accepted that the majority of the public are well behaved and consume alcohol responsibly, and that most licensed premises sell or supply alcohol in a responsible way, we must not let a minority of badly behaved and inconsiderate individuals spoil life for the majority. **Tendring District Council, Essex Police and our partner agencies are committed to working in partnership to provide an integrated and responsive approach to licensing. Within the Council, in an effort to ensure best practice is followed in enforcement matters and to avoid unnecessary duplication of effort, the licensing team is represented on its Corporate Enforcement Group.**

The Licensing Authority recognises how important the leisure and entertainment industry is to the economic and social well being of the district and well-run businesses can contribute positively to that economic and social wellbeing. Applications for new leisure developments that are well planned and where issues such as crime and disorder, public nuisance, the protection of children from harm and public safety are considered early in the planning process are welcomed. However, the Licensing Authority has demonstrated on a number of occasions that it will not hesitate in dealing firmly where problems of anti-social behaviour fuelled by excess alcohol consumption and other issues, such as the sale of alcohol to minors, exist.

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

**Chairman, Licensing and Registration Committee**

**CONTACT FOR FURTHER INFORMATION AND**  
**ALTERNATIVE LANGUAGES AND FORMATS OF THIS POLICY**

If you require an alternative language or format of this Policy or if you would like further information or have any comments on anything contained in the Policy, please contact the Licensing Section on

**01255 686565**

or write to us at:-

Licensing Section  
Democratic Services & Elections  
Tendring District Council  
Town Hall, Station Road  
Clacton on Sea  
CO15 1SE

or e-mail at: -

**[licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)**

This Policy is also available on the Council's Website

**[www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)**

# TENDRING DISTRICT COUNCIL

## STATEMENT OF LICENSING POLICY

### 1.0 INTRODUCTION

- 1.1 Tendring District Council is the Licensing Authority under the Licensing Act 2003 ('the 2003 Act'), , and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. For the purposes of this policy document, when carrying out functions required by the 2003 Act, as amended, Tendring District Council will be referred to as "the Licensing Authority", otherwise Tendring District Council will be referred to as "the Council".
- 1.2 When assessing applications, the Licensing Authority needs to be satisfied that the measures proposed in the applicant's operating schedule positively promote the four licensing objectives, namely the **prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm**. In this policy, bold type refers to matters that the Licensing Authority considers being of particular importance for applicants to take account of when preparing their application and operating schedule, where it is appropriate and proportionate to do so. Passages of text that are not in bold are provided to assist applicants and any other interested parties in understanding what the Licensing Authority is seeking to achieve through the day to day operation of its policy, the factors that influence the promotion of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome. **The Licensing Authority welcomes and encourages positive, self-imposed conditions from applicants to their operating schedule in order to further promote and strengthen the licensing objectives. Pre-application dialogue with all responsible authorities is particularly encouraged so that their advice on suitable conditions as part of an operating strategy can be provided. Their contact details, including for Essex Police Licensing Team, are set out in Appendix C.**
- 1.3 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink between **the hours of 2300hrs and 0500hrs**. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives, nor can this policy detail all the control measures that may be appropriate and proportionate in respect of all licensable activities in all premises.
- 1.4 Nothing in this Statement of Policy should be regarded or interpreted as an indication that any requirement of law may be over-ridden; each application will be considered in its own right and treated entirely on its own merits.
- 1.5 The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and private life; and

- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

## The Licensing Objectives

- 1.5 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to positively promote the four licensing objectives. These are:-
- (a) The Prevention of Crime and Disorder.
  - (b) Public Safety.
  - (c) The Prevention of Public Nuisance.
  - (d) The Protection of Children from Harm.
- 1.6 In respect to the promotion of each of the four licensing objectives, applicants should provide appropriate evidence to the Licensing Authority & other Responsible Authorities that suitable and sufficient measures are detailed in their operating schedule, which will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Applicants should also consider whether or not any additional measures will be appropriate for an occasional or specific basis, such as when a special event or promotion is planned, which is intended to, or is likely to, attract, larger audiences or are more prone to anti-social behaviour. **For events likely to attract audiences of 500 persons or more (or otherwise are of a significant nature), organisers are requested to engage with the Council's Safety Advisory Group (SAG) at the earliest opportunity (which includes representation from partner organisations such as the Police). Appendix C references the contact details for the Safety Advisory Group.**

## Statement of Licensing Policy

- 1.7 The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally seek to appropriately and proportionately apply in order to positively promote the licensing objectives when making decisions on applications submitted under the Act.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act, as amended, and having regard to the revised Guidance issued by the Secretary of State under Section 182 of the 2003 Act..
- 1.9 This Policy Statement took effect on **1 October 2022** and will remain in force for a period of not more than 5 years. It will be subject to review and a further consultation process prior to re-adoption in **30 September 2027**. In the interim, changes to legislation or guidance may make it necessary to further review and amend this policy.
- 1.10 When making, publishing and applying its policy, the Licensing Authority must have regard to the Secretary of State's Guidance issued under Section 182 of the 2003 Act. The Licensing Authority will generally adhere to this Policy when determining applications for authorisations. The Licensing Authority may depart from its Licensing Policy if the individual circumstances of any application or case merit such a decision in the interests of the promotion of the Licensing Objectives and, where this situation arises, the Licensing Authority will give its full reasons for having done so.

## Consultation

- 1.11 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents, local representative bodies (such as Town and Parish Councils), businesses, visitors to the District, responsible authorities and compliance and enforcement authorities; all of whom may have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives and the Licensing Authority will seek to engage with them as appropriate when reviewing the Policy from time to time.

These are in addition to those authorities and agencies that the Council is statutorily required to consult with in accordance with Section 5(3) of the 2003 Act.

- 1.12 In developing this Policy, the Licensing Authority consulted widely. Along with the statutory consultees (including the Chief Officer of Police for the District, the Essex County Fire and Rescue Service and local representative for the Director of Public Health in England) and persons/bodies representative of existing licence and certificate holders, the views of Ward Councillors, Town and Parish Councils, Business representatives such as the Clacton Town Partnership, partnership groups, Citizens Advice Bureau were also sought.

### **Links to Other Strategies**

- 1.13 In preparing and reviewing this Policy, the Licensing Authority has had regard to, and consulted with, those involved in its local strategies on crime prevention, planning, transport, culture, equality and diversity, tourism and economic development and regeneration, to ensure the proper co-ordination and integration of the aims and actions of these strategies. Relevant review and amendment of these strategies will be considered for their impact on this Statement of Licensing Policy.
- 1.14 To ensure suitable integration with the Council's Planning policies, the Licensing Authority will consult with the Planning Authority (along with all responsible authorities) on grant applications and full variations of a premises licence or certificate and work closely with the Planning Authority to ensure that the Planning Authority is able to address compliance with planning requirements by the applicant. As appropriate, the Licensing Authority will liaise and work closely with the Planning Authority and respond to requests for information or to general consultation regarding licensed premises in the District, including the wider impact of alcohol related crime and disorder and anti-social behaviour to enable the Planning Authority to have regard to such matters when making its decisions.
- 1.15. The Council recognises its responsibilities under appropriate equal opportunity and diversity legislation, in particular the Equality Act 2010 and the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. The impact of this policy will be monitored in general terms and the Licensing Authority will take the Public Sector Equality Duty into account when dealing with applications.

### **Tackling Child Sexual Exploitation**

- 1.16 Where practicable and advantageous, the Licensing Authority will encourage rebalancing and diversification of licensed premises away from those premises concentrating solely or largely on the sale of alcohol, to premises that provide a range of offerings to encourage a wide variety of users including of activities outside of the licensing framework of the 2003 Act..
- 1.17 The Licensing Authority is committed to protecting children from harm. The Council recognises that the misuse of alcohol often contributes to the parental neglect of children and domestic abuse and violence within families and is a key factor in the criminal and sexual exploitation of children.
- 1.18 The Council seeks to proactively work through the Council's Corporate Licensing Enforcement Group, its partner agencies (including the Police) and organisations such as Pubwatch to share intelligence and encourages managers of premises to do all they can to ensure that they and their staff recognise the ~~9 September 2020~~ signs of child exploitation and provide intelligence for the appropriate authorities about concerns, including perpetrators who may be operating in their areas.

### **Duplication with other Regulatory Regimes**

- 1.19 In exercising its licensing functions, the Licensing Authority will seek to avoid duplication with any other existing legislation and regulatory regimes that already place obligations on

employers and operators e.g. the Management of Health and Safety at Work Regulations 1999, the Regulatory Reform (Fire Safety) Order 2005, or the Environmental Protection Act 1990. This shall include, but not be limited to, attachment of conditions to licensing authorisations.

## Right to Work

- 1.20 Applicants for a premises licence, the transfer of a premises licence and a personal licence must demonstrate that they have the right to work in the United Kingdom and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. This applies for individual applicants and applications from partnerships which are not limited liability partnerships. These changes were brought into the legal framework for licensing under the 2003 Act by virtue of the Immigration Act 2016.

## Regulated Entertainment

- 1.21 Having regard to the Live Music Act 2012, the Council's Corporate Plan, its Cultural Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), a diverse provision of cultural activities is welcomed for the benefit of communities across the District. The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, etc., to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Licensing Authority may need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the appropriate cultural and leisure services within the Council and will also include outside forums where appropriate. Licensed Council premises and land are available for the promotion of cultural activities in accordance with, and subject to, established letting arrangements.

## Applications

- 1.22 When considering applications, the Licensing Authority will have regard to:-
- (a) The 2003 Act, as amended and the licensing objectives.
  - (b) Government guidance issued under Section 182 of the 2003 Act, as amended.
  - (c) Any supporting regulations.
  - (d) This Statement of Licensing Policy.
  - (e) Amendments to the licensing regime brought about by any other relevant or future legislation that may be introduced by Central Government
- 1.23 **This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered in its own right and on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.**
- 1.24 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from the Authority's functions as the local planning authority. **However, applications for premises licences for permanent commercial premises should normally be from individuals/businesses with appropriate planning consent for the property concerned.** Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.

- 1.25 When one part of the Council seeks a premises licence from the Licensing Authority, the Licensing and Registration Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the Committee. Those making representations who are aggrieved by a positive decision in favour of a Local Authority application by the Licensing Authority will be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.
- 1.26 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.27 Appendix A of this policy provides applicants with the details of the application process, having regard to the 2003 Act, the regulations, statutory guidance and local practice and procedures. It should be noted that an incomplete or incorrect application will not be accepted but will be returned with an explanation of why it is incomplete or incorrect. Reasonable assistance and advice on the application process will be given to all applicants if needed, and every effort will be made to keep the process as simple and as easy as possible. An application will only be deemed to be properly served if it has been served as follows below and in accordance with the statutory instrument regulations that cover the submission of applications made under the 2003 Act:-

- (a) Hard copy by post and sent to the address shown below:-

Licensing Section  
Tendring District Council  
Town Hall, Station Road  
Clacton on Sea  
Essex CO15 1SE

- (b) Hard copy delivered in person to the above address during normal office opening hours, when a receipt will be issued upon request.

or

- (c) Has been sent to the Licensing Authority by electronic means. Applications can be made on line either through using GOV.UK or the Council's own web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) and accessing the licensing application pages.

## Representations

- 1.28 The Chief Officer of Police, the Fire and Rescue Authority, the Licensing Authority, the Enforcing Authority for health and safety purposes, the Local Planning Authority, the authority responsible for Environmental Health, Trading Standards, the Safeguarding Children's Authority and the authority responsible for Public Health are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted. Contact details for these responsible authorities are set out in Appendix C.
- 1.29 Any other person, (this includes any individual, body or business), regardless of their geographical location or proximity to the premises, or those who are likely to be affected by it, or their representatives, are free to raise relevant representations for or against a grant, full variation or review application. Elected Members of the Licensing Authority may also make representations on behalf of such persons, but may not sit on a Licensing Sub Committee that considers those representations. A representation would only be 'relevant' if it relates to the likely effect or impact of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews not repetitious. **Any representation made**

must be received by the Licensing Authority within the relevant consultation period in order for it to be considered and upheld if necessary.

**It is only when relevant representations are received, that the Licensing Authority may hold a hearing. Where no representations are received, the application must be granted on the terms sought by the applicant.**

## Conditions

- 1.30 Licensing is about the appropriate and proportionate compliance of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgments as to whether appropriate and proportionate conditions may need to be attached to various authorisations in order to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned. These conditions will only cover matters that are within the control of individual licensees and others with relevant responsibilities and which are clear, unambiguous and enforceable.
- 1.31 The Licensing Authority acknowledges that the licensing function cannot ordinarily be used for the general control of nuisance or the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. Other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:
- (a) Planning controls.
  - (b) Positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other services within the Local Authority.
  - (c) The provision of CCTV surveillance in town centres, ample taxi ranks, street cleaning and litter patrols.
  - (d) Use of Local Authority powers to designate relevant parts of the District as places where alcohol may not be consumed publicly other than at premises licensed for 'on' sales.
  - (e) Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
  - (f) The prosecution or issuing of Penalty Notice for Disorder to any personal licence holder, member of staff or person at such premises who is selling alcohol to people who are drunk or under age.
  - (g) The confiscation of alcohol from children and adults in designated areas.
  - (h) The power of the Police, other responsible authorities or another person or body such as a local resident or business to seek a review of the licence or certificate in question.
  - (i) Action under the Violent Crime Reduction Act 2006.
  - (j) Use of Police and/or Local Authority powers (under the Anti-Social Behaviour Crime and Policing Act 2014) to close down instantly for 24 hours up to a maximum of 48 hours any licensed premises or temporary events on grounds of disorder or the likelihood of disorder or noise emanating from premises causing a nuisance.
- 1.32 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate and proportionate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.
- 1.33 The Licensing Authority recognises that all applications should be considered on an individual basis in its own right and on its own merits and any condition attached to such a

licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Although the Licensing Authority may maintain a pool of conditions which may be produced to assist applicants and others, standard conditions, other than mandatory conditions, will be avoided and no condition will be imposed that cannot be shown to be appropriate or proportionate for the positive promotion of the licensing objectives.

### **Delegation of Functions**

- 1.34 With the exception of the approval and review of its Licensing Policy and the making of Early Morning Restriction Orders/Late Night Levy Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how the Licensing Authority will approach its various functions is attached at Appendix B. The Licensing and Registration Committee will receive reports annually regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

The Licensing Authority is a Responsible Authority and as such it has both an administrative responsibility and potentially representable role and Appendix B addresses how representations by the Licensing Authority are delegated. The Licensing Authority would not normally use its representational powers whenever another responsible authority or interested party would be expected to submit such a representation. In the rare situation, where it is necessary for the Licensing Authority to submit its own representation, the Council will implement such measures to ensure there is a separation between its two roles and prevent conflicts of interest occurring.

### **The Need for Licensed Premises**

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

### **Cumulative Impact of a Concentration of Licensed Premises**

- 1.36 “Cumulative impact” means the potential negative impact on the promotion of the licensing objectives of a significant number of licensed premises being concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider when reviewing its Licensing Policy Statement.
- 1.37 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in alcohol related crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but this may not be attributable to any individual premises.
- 1.38 The Licensing Authority will only adopt a special policy on cumulative impact if there is relevant documented evidence received or sourced from a variety of sources such as the Police, Environmental Health Authority, residents, Ward Councillors, Parish and Town Council’s that a significant number of licensed premises concentrated in one area is resulting in unacceptable levels of alcohol related crime and disorder or public nuisance.
- 1.39 The Licensing Authority, having regard to the evidence currently available, and being aware of other measures that are in particular available to the Local Authority and Police to

address such issues, considers that there is no specific part of the District causing a cumulative impact on any of the licensing objectives.

- 1.40 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the initial consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. In such cases, the Licensing Authority will follow the procedure set out in the Secretary of State's Guidance to determine whether a special policy covering cumulative impact should be incorporated in the Statement of Licensing Policy. The onus however will be on the objector or objectors to provide the type and extent of documented evidence that additional licences or the variation of existing licences will provide the cumulative impact that may be subject of a special cumulative impact policy.

### **Late Night Levy**

- 1.41 The Late Night Levy is a discretionary power, introduced through the Police Reform and Social Responsibility Act 2011. It allows licensing authorities to raise contributions from late-night alcohol suppliers to help fund policing of the night-time economy. The late night supply period for late night levies must begin at or after midnight and end at or before 6am. The Licensing Authority, having regard to the evidence currently available, has decided not to implement a Late Night Levy on licensed premises in the District. The Licensing Authority will monitor the situation and review its position should circumstances alter.

### **Early Morning Restriction Orders**

- 1.42 Early Morning Restriction Orders are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises. The period that an Early Morning Restriction Order may apply to begins at or after 12am and ends at or before 6am. The Licensing Authority, having regard to the evidence currently available has decided not to impose an Early Morning Restriction Order on any premises in the District. The Licensing Authority will monitor the situation and review its position should circumstances alter.

### **Advice and Guidance**

- 1.43 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the 2003 Act provides and welcomes the diversity of activities that are provided by licence holders. In respect of new businesses and developments involving licensable activities, the Licensing Authority welcomes an early opportunity to offer advice and guidance preferably before planning permission has been sought (Note: this does not detract from the advice at 1.24 above). At this stage, it is often easier and more cost effective to integrate issues such as crime and disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions prior to submitting an application under the 2003 Act will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much reasonable advice and guidance to applicants as resources permit.
- 1.44 The Licensing Authority may also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the Licensing Authority's Licensing Team and those from whom they think representations are likely prior to submitting their application.

Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

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

## Reviews

- 1.46 Where possible and appropriate the Licensing Authority and all other Responsible Authorities will give early warning to licence holders of any concerns about problems identified at premises which may undermine, or are undermining, one or more of the licensing objectives and to initiate a dialogue that can lead to a resolution of these problems to the satisfaction of all parties. The review process represents a valuable protection mechanism for residents and the wider community to be able address problems with a specific premises where for instance there is alcohol related crime and disorder or public nuisance and where for example dialogue between the licence holder, responsible authorities or other parties concerned such as residents to prevent or mitigate such problems has not worked.
- 1.47 Responsible authorities, other persons (which could include a resident, business or Ward Councillor for example) can make an application to trigger a review of a premises licence but evidence of the problems being experienced would be required to be presented to the Licensing Authority and an applicant or applicants for a review would ordinarily be expected to be able to substantiate their complaints at a Licensing Sub Committee hearing. Representations must be relevant to one or more of the four licensing objectives and will not be accepted if they are determined by the Licensing Authority to be frivolous, vexatious or repetitious.
- 1.48 No more than one review application from interested parties other than a Responsible Authority will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

## Enforcement

- 1.49 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Licensing Authority supports the principles of the Department for Business Innovation and Skills Regulators Code designed to regulate for the protection of the vulnerable, the environment, social or other objective and to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate. A copy of the Regulators Code April 2014 is available to view through the publications page at [www.gov.uk](http://www.gov.uk).
- 1.50 In 2017, Tendring District Council adopted an overarching "umbrella" Corporate Enforcement Strategy, which accords with the government's 'Better Regulation Agenda'. Specifically, it implements good practice recommended by the Cabinet Office Enforcement Concordat, the Regulators' Code; and the regulatory principles required under the Legislative and Regulatory Reform Act 2006 ("the 2006 Act"), including the duty to have regard to economic growth ('the Growth Duty').

Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner. These are that businesses should:

- (a) Receive clear explanations from enforcers of what they need to do and by when.

- (b) Have opportunities to resolve differences before enforcement action is taken  
- unless immediate action is needed.
- (c) Receive an explanation of their rights of appeal.
- (d) Regulators should carry out their activities in a way that supports those they regulate to comply and grow
- (e) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
- (f) Regulators should base their activities on risk
- (g) Regulators should share information about compliance and risk
- (h) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- (i) Regulators should ensure that their approach to their regulatory activities is transparent.

1.51 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but robust action will be taken against those who commit serious offences or break the law. The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. In particular, a Licensing Enforcement Policy has been adopted that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Tendring District Council website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) as are details of the Council's corporate complaints procedures. Alternatively, you may contact the Licensing Team at the Council to obtain a copy of the current Policy.

1.52 The Licensing Authority has established an Enforcement Protocol with Essex Police, Essex County Fire and Rescue Service, and (Essex County Council) Trading Standards on enforcement issues. This protocol is available at this webpage [insert link]. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. A similar protocol has been agreed with Essex County Council Safeguarding Children's Board.

## 2.0 LICENSING OBJECTIVES

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

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

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

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

2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to**

**attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be documented, (although this may be required by other legislation such as a fire safety risk assessment), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as pro-actively assisting the licence holder, in the event of him/her wishing to make application for variation or in response to changing circumstances/conditions at the premises.

- 2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the promotion of the licensing objectives. Reference should be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives. If they are not, it is more likely that the application or event may receive closer scrutiny from Responsible Authorities as a result.
- 2.6 **The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority expects that these elements should be specifically considered and addressed within an applicant's operating schedule.**
- 2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement for the positive promotion of the four licensing objectives, (except in respect of premises licensed exclusively for the consumption of food and/or alcohol off the premises). The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where appropriate, within an applicant's operating schedule. Occupancy capacity of a premises will however ordinarily be a matter for the Fire Authority to consider under the Regulatory Reform (Fire Safety) Order 2005 as part of the premises fire risk assessment, or the Police for example if there are concerns that capacity is impacting on crime and disorder or public nuisance and therefore also impacting on general public safety.
- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:-
- (a) The nature of the premises or event.
  - (b) The nature of the licensable activities being provided.
  - (c) The provision or removal of such items as temporary structures, such as a stage, or furniture.
  - (d) The number of staff available to supervise customers both ordinarily and in the event of an emergency.
  - (e) The age of the customers.
  - (f) The attendance by customers with disabilities, or whose first language is not English.
  - (g) The availability of suitable and sufficient sanitary accommodation.
  - (h) The nature and provision of facilities for ventilation.
- 2.9 The Licensing Authority will consider applications for minor variations to premises licences, provided that the Authority is satisfied that the minor variation will not adversely impact on the licensing objectives and the Licensing Authority will consult with Responsible Authorities or other persons whom they deem appropriate to make such assessment.
- 2.10 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as doorstaff, attendance clickers or maintenance of attendance records. The Licensing Authority

recognises that the person in charge of the premises can often readily assess the occupancy level of the premises without resort to such measures. However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

### 3.0 PREVENTION OF CRIME AND DISORDER

- 3.1 The Council, through its Corporate Plan is committed to further improving the quality of life for the people of the District of Tendring by continuing to reduce crime and the fear of crime.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Tendring District Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The 2003 Act, as amended, reinforces this duty for local authorities.
- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that reasonable, appropriate and proportionate measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style, characteristics of their premises and events and the licensable activities to be provided.**
- 3.4 When addressing the issue of crime and disorder, the applicant should expect to demonstrate that those factors that impact on crime and disorder have been considered. These may include:-
- (a) Underage drinking.
  - (b) Drunkenness on premises.
  - (c) Public drunkenness.
  - (d) [Misuse of illegal drugs and other substances.](#)
  - (e) Violent behaviour.
  - (f) Anti-social behaviour.
  - (g) [Drink spiking.](#)

Referencing measures to address the above would be expected in operating schedules where relevant to the licensable activities proposed to be authorised (as appropriate).

### Control Measures

- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
  - (b) Training and supervision of staff including in the use of CCTV systems and retrieval of images.
  - (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, "Security in Design", "Drugs and Pubs" which are published by the British Beer and Pub Association [BBPA])
  - (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved

'proof of age' cards, e.g. 'Prove It' and the Essex County Council BITE card and/or 'new type' driving licences with photographs. E.g. Challenge 25 scheme, an approved ID must be produced as proof of persons being over 18. This may include include the use of 'phone apps' to verify those proof of age cards.

- (e) Provision of effective CCTV in and around premises.
- (f) Employment of Security Industry Authority licensed Doorstaff.
- (g) Provision of toughened or plastic drinking vessels.
- (h) Provision of secure deposit boxes for confiscated items ('sin bins').
- (i) Provision of litterbins and other security measures, such as lighting, outside premises.
- (j) Membership of local 'Pubwatch' 'Behave or be Banned' (BOBB) schemes or similar organisations (where they exist).

### **Designated Premises Supervisor [DPS]**

- 3.6 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a Premises Supervisor must be designated ('Designated Premises Supervisor'). Such person must be in possession of a current Personal Licence. The Licensing Authority will normally expect the Designated Premises Supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

The Act does not require a DPS or any other Personal Licence Holder to be present on the premises at all times when alcohol is sold. However, the DPS and the Premises Licence Holder remain responsible for the premises at all times and have a duty to comply with the terms of the Licensing Act and any conditions, including the matters set out in the premises' Operating Schedule, in order to promote the Licensing Objectives. To that end, the Licensing Authority will be mindful of the Secretary of State's guidance issued under Section 182 of the 2003 Act, which recommends that a Personal Licence Holder/DPS gives specific written authorisations to those individuals they are authorising to supply alcohol. Although written authorisation is not a requirement of the Act and the Designated Premises Supervisor/Personal Licence Holder remain ultimately responsible for ensuring compliance with the Act and licensing conditions, this action could assist in demonstrating responsible management and due diligence should any issues arise with regard to enforcement. The Licensing Authority will therefore expect that where the Personal Licence Holder/DPS does not have the premises under their immediate day to day control, written authorisations should be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the Licensing Authority or the Police upon request.

### **Temporary Events**

- 3.7 Certain temporary events, whilst not required to be fully licensed, must be notified to the Licensing Authority using the Temporary Event Notice (TEN) procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. For these reasons, organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police, the Environmental Department of the Council and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. See Appendix D for details regarding the application process and timescales for the submission of Temporary Event Notices.

There are two forms of TEN. A standard one and a late one. **A standard TEN must be submitted with at least 10 clear working days' notice before the event is due to take place. A late TEN must be submitted with at least 5 clear working days' notice before the event is due to take place. The working days notice period will be calculated exclusive of the day on**

which the notice was given and the day on which the event is due to start. A working day does not include weekend or a bank holiday(s).

~~After the three full working days consultation, you will receive written notification of a granted Temporary Event Notice which you will need to have with you on the day of the event.~~

Where no counter notice is issued, the person serving the TEN will receive written acknowledgement of it which they should have with them on the day(s) of the event. Where representations are made, counter notices will be issued and (in the case of standard TENs) a hearing will be arranged.

## 4.0 PUBLIC SAFETY

- 4.1 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 are expected to demonstrate in their operating schedule that reasonable, appropriate and proportionate measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises, events and the licensable activities to be provided.**
- 4.2 When addressing the issue of public safety, an applicant should expect to demonstrate that those factors that impact on the standards of public safety have been considered. These may include:-
- (a) The occupancy capacity of the premises.
  - (b) The age, design and layout of the premises, including emergency action procedures and means of escape arrangements in the event of fire or other emergencies.
  - (c) The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
  - (d) The hours of operation (differentiating between the hours of opening from the hours when licensable activities are provided, if these are different)
  - (e) The Customer profile (e.g. age, disability)
  - (f) The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
  - (g) Compliance with the Disability Discrimination Act etc.

### Control Measures

- 4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Suitable and sufficient risk assessments.
  - (b) Effective, responsible and pro-active management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
  - (c) Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons such as SIA registered Door staff.
  - (d) Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons including in the use of CCTV systems and retrieval of images.
  - (e) Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA).
  - (f) Provision of effective CCTV in and around premises.
  - (g) Provision of toughened or plastic drinking vessels.
  - (h) Implementation of crowd management measures.

- (i) Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc., pertinent to safety.

## **5.0 PREVENTION OF PUBLIC NUISANCE**

- 5.1 Licensed premises, if poorly or irresponsibly managed, can have a significant potential to impact adversely on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 5.2 The Licensing Authority applies a wide interpretation to “public nuisance”, and to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Any such measures should be appropriate and proportionate to the individual nature of the premises and how it intends to operate. E.g. its hours of opening, its alcohol sales and its licensable activities. It may also take into account the location of the premises. For instance, if a shop or supermarket wished to open in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further.

For example the individual off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of very low cost super strength lagers, beers or ciders. Any such partnership working will have regard to advice such as that in the Local Government Association guidance to Local Authorities dated December 2014 on ‘Reducing the Strength’ schemes and the Competition and Market Authority guidance to retailers dated March 2015. Conversely, premises for which it can be demonstrated have effective controls and measures in place, or are proposed to prevent public nuisance, may be suitable for 24-hour opening for example.

- 5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder. For instance, if a shop or supermarket wished to open for longer hours in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further. For example the off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of low cost super strength lagers, beers or ciders. Any such partnership working must however fully comply with for example; the Local Government Association guidance to Local Authorities dated December 2014 on ‘Reducing the Strength’ schemes and the Competition and Market Authority guidance to retailers dated March 2015.
- 5.5 Applicants will be expected to demonstrate in their operating schedule that appropriate and proportionate 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.

- 5.6 When addressing the issue of prevention of public nuisance, the applicant should demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:-
- (a) The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
  - (b) The hours of operating, particularly between 23.00 and 07.00.
  - (c) The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
  - (d) The design and layout of premises and in particular the presence of noise limiting features.
  - (e) The occupancy capacity of the premises.
  - (f) The availability of public transport.
  - (g) A 'wind down period' between the end of the licensable activities and closure of the premises.
  - (h) A last admission time.

### **Control Measures**

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

### **6.0 PROTECTION OF CHILDREN FROM HARM**

- 6.1 The protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 6.2 The general relaxation in the 2003 Act, as amended, giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence

holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger. This applies to premises licensed under the Licensing Act, 2003, as amended, only and not those fully licensed and regulated as sexual entertainment venues under the Local Government (Miscellaneous Provisions Act) 1982.
- 6.4 The Licensing Authority considers that there should be no presumption of giving or preventing children's access to licensed premises. Unless it is appropriate for the prevention of physical, moral or psychological harm following relevant representation, particularly where a responsible authority is engaged, the Licensing Authority has no intention of imposing conditions prohibiting or restricting the admission of children. Where no licensing restriction is appropriate, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a Temporary Event Notice.
- 6.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises, events and the licensable activities to be provided.**
- 6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:-
- (a) Where entertainment or services of an adult or sexual nature are commonly provided;
  - (b) Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
  - (c) Where requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm;
  - (d) With a known association with drug taking or dealing;
  - (e) Where there is a strong element of gambling on the premises, and
  - (f) Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

### **Control Measures**

- 6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
  - (b) Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
  - (c) Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.

- (d) Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks).
- (e) Limitations on the hours when children may be present in all or parts of the premises.
- (f) Limitations or exclusions by age when certain activities are taking place (e.g. feigned or actual sexual acts or fetishism, etc.).
- (g) Imposition of requirements for children to be accompanied by an adult.
- (h) Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs.
- (i) Measures to ensure children do not purchase, acquire or consume alcohol.
- (j) Measures to ensure children are not exposed to incidences of violence or disorder.
- (k) Limitations on the parts of premises to which children might be given access.

These examples can be adopted in any combination.

## **Film Exhibitions**

- 6.8 In the case of film exhibitions, if relevant representations are made, the Licensing Authority will expect licence and certificate holders and those who have given notice of a Temporary Event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if appropriate.
- 6.9 If relevant representations are made and it is considered appropriate and proportionate for the promotion of the licensing of the licensing objective, the Licensing Authority may require that adult supervisors be checked for suitability to work with children.
- 6.10 The Licensing Authority will rarely impose complete bans on access to children. However, in exceptional circumstances where relevant representations have been made, conditions restricting access or excluding children completely may be considered appropriate for the promotion of the licensing objective.

## **7.0 MODERN SLAVERY**

7.1 Within the general scope of its licensing responsibilities, the Licensing Authority wishes to identify that it can have a positive role to deter the scourge of Modern Day slavery being associated with licensed premises. Modern slavery is a crime. The UK Modern Slavery Act 2015 includes the following under the offence of modern slavery:

- Slavery, where ownership is exercised over a person,
- Servitude, where a person is obliged to provide services imposed by coercion,
- Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily, and
- Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.

7.2 Licensed premises might be unwitting hosts to modern slavery in two ways:

- Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.
- Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.

7.3 Staff at licensed premises can have the power to identify and report any exploitation they encounter. A licence holder may ensure awareness of modern slavery by:

Identifying any risks at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.

- Actively informing those working on the premises of their rights and how they can confidentially seek help or advice on modern slavery if required.
- Provide regular training to all staff on the indicators of modern slavery and how to report concerns.
- Establishing strong relationships with local police and victims service providers, such as the national Modern Slavery Helpline (0800 0121 700), in advance of any incident.

## APPENDIX A

### DETAILS OF APPLICATION PROCESS

#### GENERAL INFORMATION

##### **1. GRANT OF A PREMISES LICENCES**

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

If a relevant representation is received a date will be set for the application to be heard by the Premises/Personal Licences Sub-Committee. In the meantime, if it is possible to do so, the applicant and the consultee are encouraged to make contact with one another to see if there is common ground between them whereby the applicant could offer measures that may mitigate the objection and lead to a withdrawal of representation and therefore make a hearing unnecessary for all parties concerned. The Licensing Authority is happy to facilitate such mediation if asked to do so and if it is possible to do so.

- (h) On the day that the application has been submitted, a notice to that effect has to be displayed on the premises for a period of 28 continuous days so that members of the public may be aware that an application has been submitted to the Licensing Authority allowing them to make representations if they so wish. The notice must be coloured blue and shall be no less than a minimum of A4 in size with a type size of not less than 12 pitch. The application will also be required to be advertised in a local newspaper in the area in which the premises are situated. If a representation is received which is relevant to one of the four Licensing Objectives, a Hearing will be required. A date for the Hearing will be set and all parties will be advised.
- (i) If no representations are received from any source by the relevant expiry date, the application will be dealt with by Council Licensing Officers and the licence issued on the terms and conditions as requested.
- (j) If an application is heard by a Licensing Sub Committee, the decision and the reasons that the Committee has arrived at that decision will be given in writing to all parties as soon as possible after the decision has been reached. The decision will be given verbally at the hearing. Any party who disagrees with the decision of the Licensing Authority has the right of appeal to the Magistrates' Court and they will be informed of their right of appeal when they receive notification of that decision.

## **2. VARIATION OF A PREMISES LICENCE**

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online.
- (b) The application procedure for the variation of a Premises Licence will follow the same procedural steps as for the grant of a Premises Licence as set out in 1, above. The exception being that of a Minor Variation Application. Applicants for a Minor Variation are advised to contact the Licensing Section, 01255 686565 or by e-mail, [licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk), for advice prior to submission as it is at the discretion of the Licensing Authority whether it will accept a minor variation and there are criteria under which the Licensing Authority cannot accept a variation to the licence as a minor variation. It is therefore best to have an initial dialogue with the Licensing Authority before applying.
- (c) The Act states that a licence may neither be varied so as to extend the period for which the current licence has effect nor to seek to vary substantially the premises to which the existing Licence(s) relates. If applicants are in any doubt as to whether they should apply for a variation of their Premises Licence or make a grant application, they should seek advice from the Licensing Authority.

### **3. TRANSFER OF A PREMISES LICENCE**

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online through the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.
- (b) Although procedural arrangements follow those set out in 1. above, it should be noted that only the Police Authority must be consulted and receive a copy of the application and that the period for the receipt of representations from this source is 14 days. For applications submitted electronically the Licensing Authority will serve a copy of the application on the Police Authority.
- (c) If no representations are received, the application will be granted in accordance with 1(i) above.
- (d) If a representation is received then a Hearing will be arranged in accordance with the procedure set out in 1. above.

### **4. DESIGNATED PREMISES SUPERVISOR**

#### **GRANT/SUBSTITUTION OF DESIGNATED PREMISES SUPERVISOR**

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

- (a) An application shall be submitted to the Licensing Authority in the specified format, together with the documentation specified in the Guidance Notes. Applications can also be submitted online.
- (b) A copy of the notice shall be served upon the Police Authority. For applications submitted electronically the Licensing Authority will serve a copy of the notice on the Police Authority.
- (c) A copy of the notice shall be served upon the Designated Premises Supervisor [if there is one]
- (d) It will be necessary to state whether the application requires the variation to take immediate effect.
- (e) The procedure for determining the application follows the normal procedure set out in 3. above in that, if there are no representations from the Chief Officer of Police, the application must be granted.
- (f) If representations are received, the Licensing Authority will notify all parties and, unless the representation is withdrawn, a Hearing will be held in accordance with the procedure already detailed in this Appendix.

#### **REMOVAL OF DESIGNATED PREMISES SUPERVISOR**

- (a) Where an individual wishes to cease being the Designated Premises Supervisor in respect of a Premises Licence he or she may give the Licensing Authority notice to that effect, the notice to be in writing together with the documentation required for the particular type of notice being given and detailed in the Guidance Notes.

Applications can also be submitted online through the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.

- (b) Within 48 hours of the notice being served upon the Licensing Authority, the individual must [unless he or she is the Premises Licence holder] serve a copy of the notice and another notice requiring the Premises Licence holder to send the Premises Licence to the Licensing Authority. The Premises Licence holder must comply with this request within 14 days of that notice.
- (c) Provided that the proper notices are served and documentation supplied within the specified timescales, the Licensing Authority will no longer treat that individual as the Designated Premises Supervisor.

## **5. PROVISIONAL GRANT APPLICATIONS**

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

## **6. INTERIM AUTHORITY NOTICES**

- (a) Should a Premises Licence lapse due to the death, incapacity or insolvency of the licenceholder, then an application may be made to the Licensing Authority for an Interim Authority Notice to enable the premises to continue to trade pending a transfer application being made. This may be made in paper format or electronically through the licensing pages of the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.
- (b) An application may be submitted by a Personal Representative, a person holding a Power of Attorney or an Insolvency Practitioner.
- (c) As soon as the Interim Authority Notice is given, the Premises Licence will be reinstated as from that time and the person who gave the notice will be considered to be the holder of the Premises Licence.
- (d) The Premises Licence will lapse after a period of 28 days unless a copy of the notice has been given to the Chief Officer of Police or a Transfer application has been submitted to the Licensing Authority.
- (e) If no representation is received, the application will be processed by Officers of the Licensing Authority.
- (f) If the Chief Officer of Police wishes to object to the transfer on the grounds that it will undermine the Crime and Disorder Licensing Objective he must, within 2 working days of receiving the notice, give notice to the Licensing Authority stating the reasons for this decision and, unless the representation is withdrawn, a Hearing will be arranged in accordance with the procedure set out above.
- (g) There is nothing to prevent the person giving the Interim Authority Notice from making a transfer application if it is made during the Interim Authority period or if the application for the Interim Authority application is rejected or withdrawn or if the licence lapses again at the time of rejection or withdrawal.
- (h) In certain circumstances, the Interim Authority Notice may be cancelled if the Crime and Disorder objective is being undermined and the Act provides the procedure which must be followed in this event.

## **7. REINSTATEMENT OF LICENCE**

The Act provides that an application for the reinstatement of a licence following the events set out in Paragraph 6 above can be made when the Interim Authority Licence ceases to have effect when it is cancelled or withdrawn.

The application must be made no later than seven days after the licence has lapsed and where an application for transfer has been made.

## **8. GRANT OF A PERSONAL LICENCE**

- (a) An application for the grant of a personal licence:-
  - (1) must, if the applicant is ordinarily resident in the area of a licensing authority, be made to that authority, and
  - (2) may, in any other case, be made to any Licensing Authority.
- (c) The application should be accompanied by the required supporting documentation or a statement as to why such documents are not being supplied.
- (e) Only one Personal Licence may be held by an individual at any one time.
- (f) The criteria to be met for the grant of a Personal Licence will be contained in the appropriate application pack.
- (g) Where the criteria are not met with regard to age, qualifications or forfeiture of a personal licence, the application will be rejected. In circumstances where the applicant has been convicted of a relevant offence under Schedule 4 of the 2003 Act, the Chief Officer of Police will be notified. If a representation is received from that source under the Crime and Disorder objective and is not withdrawn, or considered by the applicant, the Police and the Licensing Authority to be unnecessary, then a Hearing of the Council's Licensing Sub Committee will be held to determine the application.

## **9. Applications Submitted Electronically.**

All online applications must be submitted **either** by way of the GOV.UK Portal or, **via the Tendring District Council online forms, or by email [licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)** . For further information, please go to GOV.UK or the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

**An application will only be valid once all documentation required and application fee is received successfully.**

## APPENDIX B

### DELEGATION OF FUNCTIONS

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

<b>Matter to be dealt with</b>	<b>Licensing and Registration Committee/ Council</b>	<b>Premises/Personal Licences Sub-Committee</b>	<b>Officers</b>
Determination as to whether applicant for a Club Premises Certificate meets the statutory conditions.			All cases
Determination for requests for plans to be other than to scale 100:1			All cases
Determination of interim measures following an expedited review		If time permits a hearing	
Determination of representations (to be) made on a grant/variation application for a premises licence/club premises certificate as a Responsible Authority.			All cases
Service of Closure Notice			All cases

## APPENDIX C

### BIBLIOGRAPHY OF USEFUL CONTACTS / INFORMATION

	ORGANISATION	CONTACT ADDRESS	TELEPHONE
1.	The Licensing Authority <b>[Responsible Authority]</b>	The Licensing Team Tendring District Council Town Hall, Station Road Clacton on Sea Essex CO15 1SE	☎ 01255 686565 <a href="mailto:licensingsection@tendringdc.gov.uk">licensingsection@tendringdc.gov.uk</a>
2.	Essex Police <b>[Responsible Authority]</b>	Licensing Department (Alcohol) Essex Police Braintree Essex CM7 3DJ	☎ 101 or 01245 452035 e-mail: <a href="mailto:licensing_applications@essex.police.uk">licensing_applications@essex.police.uk</a>
3.	Essex County Fire and Rescue Service <b>[Responsible Authority]</b>	Essex County Fire and Rescue Service Colchester and Tendring Community Command Colchester Fire Station Cowdray Avenue Colchester Essex CO1 1XT	☎ 01376 576600  e-mail <a href="mailto:northeastgroupsdp@essex-fire.gov.uk">northeastgroupsdp@essex-fire.gov.uk</a>  <a href="http://www.essex-fire.gov.uk">www.essex-fire.gov.uk</a>
4.	Planning Services <b>[Responsible Authority]</b>	Tendring District Council Planning Services Tendring District Council Town Hall, Station Road Clacton on Sea Essex CO15 1SE	☎ 01255 686123
5.	Environmental Health [Noise Pollution and Premises Inspections] <b>[Responsible Authority]</b>	Environmental Department Tendring District Council 88-90 Pier Avenue Clacton on Sea Essex CO15 1TN	☎ 01255 686767
<b>USE THE ABOVE CONTACT DETAILS AT 5. FOR THE SAFETY ADVISORY GROUP</b>			
6.	Essex County Council Social Services <b>[Responsible Authority]</b>	Head of Child Protection [Licensing Applications] Essex County Council PO Box 297 County Hall Chelmsford Essex CM1 1YS	☎ 01245 436744
7.	Public Health <b>[Responsible Authority]</b>	Public Health Team Essex County Council Essex House 200 The Crescent Colchester Essex CO4 9YQ	☎ 07921 397530
8.	Essex Trading Standards <b>[Responsible Authority]</b>	Business Support Team Essex Trading Standards Essex County Council CG32 County Hall Chelmsford Essex CM1 1QH	☎ 01245 341888

9.	Arts Council England	Arts Council England 14 Great Peter Street London SW1P 3NQ	☎ 0845 300 6200 <a href="mailto:enquiries@artscouncil.org.uk">enquiries@artscouncil.org.uk</a> <a href="http://www.artscouncil.org.uk">www.artscouncil.org.uk</a>
10.	Association of Licensed Multiple Retailers (Includes BEDA)	9B Walpole Court Ealing London W5 5ED	☎ 020 8579 2080 <a href="mailto:info@almr.org.uk">info@almr.org.uk</a> <a href="http://www.almr.org.uk">www.almr.org.uk</a>
11.	British Beer and Pub Association	Market Towers 1 Nine Elms Lane London SW8 5NQ	☎ 020 7627 9191 <a href="mailto:web@beerandpub.com">web@beerandpub.com</a> <a href="http://www.beerandpub.com">www.beerandpub.com</a>
12.	British Board of Film Classification	3 Soho Square London W1D 3HD	☎ 020 7440 1570 <a href="mailto:helpline@bbfc.co.uk">helpline@bbfc.co.uk</a> <a href="http://www.bbfc.co.uk">www.bbfc.co.uk</a>
13.	British Institute of Innkeeping	Wessex House 90 Park Street Camberley GU15 3PT	☎ 01276 684449 <a href="mailto:reception@bii.org">reception@bii.org</a> <a href="http://www.bii.org">www.bii.org</a>
14.	Tendring Community Safety Partnership	Community Safety Manager <b>Tendring District Council</b> <b>Town Hall, Station Road</b> <b>Clacton on Sea</b> <b>Essex CO15 1SE</b>	☎ 01255 686359
15.	Essex Racial Equality Council	13 Northlands Pavement Pitsea Centre Basildon Essex SS13 3DU	☎ 01268 465068 <a href="http://www.essexrec.org.uk">www.essexrec.org.uk</a>
16.	Equity	Guild House Upper Martins Lane London WC2H 9EG	☎ 020 7379 6000 <a href="mailto:info@equity.org.uk">info@equity.org.uk</a> <a href="http://www.equity.org.uk">www.equity.org.uk</a>
17.	Institute of Acoustics	3 <sup>rd</sup> Floor St Peters House 45-49 Victoria Street St Albans Herts. AL1 3WZ	☎ 01727 848195 <a href="mailto:ioa@ioa.org.uk">ioa@ioa.org.uk</a> <a href="http://www.ioa.org.uk">www.ioa.org.uk</a>
18.	Musician's Union	60-62 Clapham Road London SW9 0JJ	☎ 020 7840 5537 <a href="mailto:eastsoutheast@musiciansunion.org.uk">eastsoutheast@musiciansunion.org.uk</a> <a href="http://www.musicians.org.uk">www.musicians.org.uk</a>
19.	Security Industry Authority	PO Box 8 Newcastle Upon Tyne NE82 6YX	☎ 08702 430100 <a href="http://www.sia.homeoffice.gov.uk">www.sia.homeoffice.gov.uk</a>
20.	The Portman Group	7-10 Chandos Street Cavendish Square London W1G 9DG	☎ 020 7907 3700 <a href="mailto:info@portmangroup.co.uk">info@portmangroup.co.uk</a> <a href="http://www.portmangroup.org.uk">www.portmangroup.org.uk</a>

## APPENDIX D

### TEMPORARY EVENT NOTICES

#### APPLICATION PROCESS / TIMESCALES

##### TEMPORARY EVENT NOTICES

If an event is to be held at a premises where the Premises Licence does not authorise the activity involved and/or for the times and days sought, an application should be made to the Licensing Authority for a Temporary Event Notice. The aim of the Temporary Event process is to minimise the regulatory burden on such events, this can be especially pertinent where they are run by community or charity groups.

The main points to bear in mind are:-

- ❑ Anyone aged 18 or over may apply to hold a Temporary Event [TEN] and, if the supply of alcohol is involved, they do not have to possess a Personal Licence.
- ❑ The applicant must be over 18 years old.
- ❑ The period of time over which the event is to be held must not exceed 168 hours.
- ❑ The maximum number of people attending the event, including staff, should not exceed 499 at any one time. If more than 499 people are to attend the event, then a Premises Licence would be required.
- ❑ There must be a minimum period 24 hours between one TEN and the next TEN.

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

- ❑ The same premises cannot be used on more than 15 occasions in any calendar year. Also, each premises is subject to an overall aggregate of 21 days' use, irrespective of the number of individual occasions on which they have been used.
- ❑ The number of notices given by one individual within a given period of time is limited:-
  - (i) A Personal Licence Holder is limited to 50 Temporary Event notices (10 of which may be Late Temporary Event notices) in one calendar year, which is deemed to run from 1 January in each year.
  - (ii) Any other person is limited to 5 Temporary Event notices (2 of which may be Late Temporary Event notices) in the same period.
  - (iii) A Late Temporary Event Notice must be given no later than 5 working days and no sooner than 9 working days before the event.  
[N.B. This limitation applies to England and Wales, not just this Licensing Authority]
- ❑ There is also a limitation attached to 'Associated Persons' in order to prevent the above restrictions being exceeded. Generally, an Associated Person would be deemed to include the immediate family, down to child, parent, grandchild, brother or sister, an agent or employee of the original applicant and the agent's or employee's spouse.

##### **Temporary amendments for 2022 and 2023.**

For the duration of 2022 and 2023, the number of Temporary Event Notices that a premises user can give will also increase from 15 to 20 per calendar year and the maximum number of days a temporary event may be held at a premises will increase from 21 to 26 days per calendar year.

A single premise can have up to 20 TENs applied for in one year, as long as the total length of the events is not more than 26 days, for events taking place in 2022 and 2023 only.

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

### **APPLICATION PROCESS**

The application form should be completed in accordance with the printed instructions accompanying the form. An application fee of £21.00 is required to accompany the application and the form should be submitted in duplicate to the Licensing Authority, one copy of which will be returned to you signed on behalf of the Licensing Authority and a copy of the application form should also be sent to the Police. Applications can also be submitted online. In such cases the Licensing Authority will forward a copy to the Police.

You **must** give a full ten **working** days' notice prior to the event being held (a minimum of 5 working days in the case of a Late Temporary Event Notice) as; otherwise, your application will be rejected. Only the Police or Environmental Health are permitted to object to the granting of a Temporary Event Notice/Late Temporary Event Notice, however, if the granting of the application would exceed any of the limitations/conditions set out above, the Licensing Authority may issue a Counter Notice, which will cancel the Temporary Event Notice/Late Temporary Event Notice that has been submitted. The Licensing Authority is allowed to give advice on Noise, Nuisance or Health & Safety issues, etc., and applicants are advised to contact the Authority for such advice.

If the Police or Environmental Department wishes to object to the application, they must do so within 3 working days of the notification being received and in this case a Hearing will be convened of the Council's Licensing Sub Committee unless all parties, following discussions, agree that this will not be necessary. Any decision made at the hearing must be given no later than 24 hours before the date of the event. **The Licensing Sub Committee can attach conditions to the grant of a TEN if it is considered appropriate and proportionate to promote the licensing objectives, but only where those conditions already exist on a premises licence or club premises certificate.** If the Licensing Authority upholds the Police or Environmental Health representation, then a Counter Notice will be issued giving the reasons for the decision and copies of the Notice will be given to the Police and/or the Environmental Health Authority. However, if the Temporary Event notice/Late Temporary Event Notice is in order and no Counter Notice is given, the Licensing Authority will record the event in the Licensing Register and the event will proceed.

### **Service of Temporary Event Notice/Late Temporary Event Notice.**

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

- (a) One copy to the Licensing Authority at the following address:

The Licensing Officer, Licensing Section, **Tendring District Council  
Town Hall, Station Road, Clacton on Sea, Essex CO15 1SE**

- (b) One copy to Essex Police at the following Address:

Licensing Department (Alcohol), Essex Police, Braintree, Essex, CM7 3DJ

- (c) One copy to Environmental Department at the following address:

Environmental Department, **Tendring District Council, 88-90 Pier Avenue  
Clacton on Sea, Essex, CO15 1TN**

For applications submitted electronically the Licensing Authority will forward a copy to Essex Police and Environmental Department. On line applications can be made through **the licensing pages of the Council's web site** or via GOV.UK.

**N.B.** When accepting an application for a Temporary Event Notice/Late Temporary Event Notice, the Licensing Authority will assume that the applicant has ensured that all the necessary

permissions and planning consents have been obtained to enable the particular event to take place.

### **Appeals**

If, in the case of a Temporary Event Notice, as a result of Essex Police/Environmental Health lodging a representation, the Licensing Authority issues a Counter Notice, the premises user has the right of appeal. However, there is no right of appeal if a representation is made against a Late Temporary Event Notice or where the limits have been exceeded with regard to the number of persons attending the event or where the applicant has not given the required ten working days' notice (or minimum 5 working days notice in the case of a Late Temporary Event Notice).

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

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

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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