

Tendring District Council



POLICY FOR DEALING WITH APPLICATIONS RECEIVED UNDER THE LICENSING ACT 2003

2022-2027

Adopted XXXX

Tendring District Council: www.tendringdc.gov.uk

FOREWORD

~~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, as amended. Since the **original** adoption of the policy statement the Act has been amended.

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 Licensing Authority is also permitted to re-adopt its policy for dealing with matters under the Licensing Act 2003 every five years, instead of three under changes made by the Government under the Police Reform and Social Responsibility Act 2011.

This **fifth** policy statement will come into effect from ****** 2022** and sets out the general approach the Authority will be taking when making licensing decisions during the next five year period up to ****** 2027**. The Policy will be subject to public consultation and scrutiny before its adoption and publication by the Council. It is however proposed that any future legislative changes to the Licensing Act during the five years up to ****** 2027** will be amended in the policy under delegated authority and it is unlikely to be subjected to further public consultation or comment as a result.

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 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 on the Corporate Enforcement Group are committed to working in partnership to provide an integrated and responsive approach to licensing.**

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 will get the support of the Authority. 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 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 Tendring a safe and welcoming place for residents, businesses and visitors to live, work and visit.

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

or e-mail at: -

licensingsection@tendringdc.gov.uk

This Policy is also available on the Council's Website

www.tendringdc.gov.uk

BENGALI

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CHINESE

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GUJERATI

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HINDI

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POLISH

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TURKISH

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URDU

اگر آپ کو اس دستاویز کی ضرورت اردو میں ہے تو www.Tendringdc.gov.uk کے ذریعے اس کے ترجمہ کی فرمائش کی جا سکتی ہے

TENDRING DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY

1.0 INTRODUCTION

- 1.1 Tendring District Council is the Licensing Authority under the Licensing Act 2003, (as variously amended), 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 Licensing Act 2003, 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 expect 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.**
- 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 2300 and 0500**. 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.
- 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 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. **For such instances applicants will be strongly encouraged to engage with the Council's Safety Advisory Group (SAG).**

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 under Section 182 of the Act, (as amended).
- 1.9 This Policy Statement took effect on **** 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 **** 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, as amended. 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 if 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, 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 who will have had an opportunity to comment on this policy as part of the consultation process. 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 Licensing Act 2003.
- 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, known residents associations or groups, Citizens Advice Bureau and known night time economy groups or trade bodies and bodies representing ethnic minority groups, disabled persons and known faith groups were also sought. Appropriate weight and consideration was given to the views of all those who responded to the consultation process.

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 on grant applications and full variations of a premises licence or certificate and work closely with the Planning Authority to ensure that the need for compliance with planning requirements are made known to 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 through the Council's equality and diversity policies and strategies and the Licensing Authority will take these responsibilities into account when dealing with applications.

Tackling Child Sexual Exploitation

- 1.16 The Licensing Authority acknowledges that it is the view of the Government that the use of licensed premises by children should be encouraged where appropriate. Therefore, this Policy seeks to rebalance and diversify 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.
- 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 Licensing Enforcement Group and Pubwatch to share intelligence and encourages premises to do all they can to ensure that they and their staff recognise the 9 September 2020 signs of child exploitations 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.

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.

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 all communities. 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 Tendring District Council and will also include outside forums and town centre managers 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 Licensing Act 2003, as amended and the licensing objectives.
 - (b) Government guidance issued under Section 182 of the Licensing Act 2003, as amended.
 - (c) Any supporting regulations.
 - (d) This Statement of Licensing Policy.
 - (e) Amendments to the licensing regime brought about by the:
 - Police Reform and Social Responsibility Act 2011
 - Live Music Act 2012
 - Deregulation Act 2015
 - 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 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 **or officers if practicable**. 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 Licensing Act 2003, as amended, the regulations, statutory guidance and local practice and procedures. It should be noted that an incomplete or incorrect application will not be accepted but will be returned with an explanation of why it is incomplete or incorrect. 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 Licensing Act 2003:-

- (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, in accordance with the EU Services Directive. Applications can be made on line either through using GOV.UK or the Council's own web site www.tendringdc.gov.uk and accessing the licensing home 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.
- 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 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 regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

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 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 documented evidence that additional licences or the variation of existing licences will provide the cumulative impact that is being claimed.

Late Night Levy

- 1.41 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 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 Licensing Act 2003 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. At this stage, it is often easier and more cost effective to integrate issues such as crime and disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions prior to submitting an application under the Licensing Act 2003 will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much 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.
- 1.50 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 consistently break the law. The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. In particular, a Licensing Enforcement Policy has been adopted that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Tendring District Council website www.tendringdc.gov.uk as are details of the Council's corporate complaints procedures.
- 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 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 Tendring District Council, through its Corporate Strategy 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 Licensing Act 2003, 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 and characteristics of their premises and events.**

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) Drugs.
- (e) Violent behaviour.
- (f) Anti-social behaviour.

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

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 S182 Guidance issued by the Secretary of State, which recommends that a Personal Licence Holder/DPS gives specific written

authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the Act and the Designated Premises Supervisor/Personal Licence Holder remain ultimately responsible for ensuring compliance with the Act and licensing conditions, this action could assist in demonstrating 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 procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police, the Environmental Department 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).

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. If a bank holiday(s) falls within this period then an additional working day must be allowed for each bank holiday.

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

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 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. 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 Licensing Act 2003, as amended, giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 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 and events.**
- 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.

APPENDIX A

DETAILS OF APPLICATION PROCESS

GENERAL INFORMATION

1. GRANT OF A PREMISES LICENCES

- (a) All applications to be made under the provisions of the Licensing Act 2003, as amended, must be made in the form specified by the Secretary of State and appropriate application packs will be issued. Details of how to submit an application online can be found on the licensing pages of the Council's website 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.
- (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 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, namely, that an application for the grant or variation of a Premises Licence must be determined within a period of two months from the date a complete application is received, otherwise the application will be deemed as granted (under the EU Services Directive this is known as a Tacit Consent).

- (g) The applicant and the Licensing Authority will be informed by the relevant consultee whether or not the application is valid, i.e. that their relevant Licensing Objective has been fully met within their business Operating Schedule and if a representation [objection] is to be lodged. If a 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, 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.tendingdc.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 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 Licensing Act 2003, as amended, permits the granting of Provisional Licences to allow applications to be accepted for the grant of a Premises Licence where the actual premises has not been built or where works are necessary to be carried out to bring the building into use for any purposes covered by the Act. Guidance notes will be available for those persons wishing to make this type of application and may be obtained from the Licensing Authority upon request.

6. INTERIM AUTHORITY NOTICES

- (a) Should a Premises Licence lapse due to the death, incapacity or insolvency of the 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 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 Licensing Act 2003, 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 ELMS Portal provided by Business Link UK, **via the Tendring District Council online forms, or by email 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

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	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	

APPENDIX C

BIBLIOGRAPHY OF USEFUL CONTACTS / INFORMATION

	ORGANISATION	CONTACT ADDRESS	TELEPHONE
1.	The Licensing Authority [Responsible Authority]	The Licensing Team Tendring District Council Town Hall, Station Road Clacton on Sea Essex CO15 1SE	☎ 01255 686565 licensingsection@tendringdc.gov.uk
2.	Essex Police [Responsible Authority]	Licensing Department (Alcohol) Essex Police Braintree Essex CM7 3DJ	☎ 101 or 01245 452035 e-mail: licensing.applications@essex.pnn.police.uk
3.	Essex County Fire and Rescue Service [Responsible Authority]	Essex County Fire and Rescue Service Colchester and Tendring Community Command Colchester Fire Station Cowdray Avenue Colchester Essex CO1 1XT	☎ 01376 576600 e-mail colchesterdp@essex-fire.gov.uk www.essex-fire.gov.uk
4.	Planning Services [Responsible Authority]	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] [Responsible Authority]	Environmental Department Tendring District Council 88-90 Pier Avenue Clacton on Sea Essex CO15 1TN	☎ 01255 686767
6.	Essex County Council Social Services [Responsible Authority]	Head of Child Protection [Licensing Applications] Essex County Council PO Box 297 County Hall Chelmsford Essex CM1 1YS	☎ 01245 436744
7.	Public Health [Responsible Authority]	Public Health Team Essex County Council Essex House 200 The Crescent Colchester Essex CO4 9YQ	☎ 07921 397530
8.	Essex Trading Standards [Responsible Authority]	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 enquiries@artscouncil.org.uk www.artscouncil.org.uk
10.	Association of Licensed Multiple Retailers (Includes BEDA)	9B Walpole Court Ealing London W5 5ED	☎ 020 8579 2080 info@almr.org.uk www.almr.org.uk
11.	British Beer and Pub Association	Market Towers 1 Nine Elms Lane London SW8 5NQ	☎ 020 7627 9191 web@beerandpub.com www.beerandpub.com
12.	British Board of Film Classification	3 Soho Square London W1D 3HD	☎ 020 7440 1570 helpline@bbfc.co.uk www.bbfc.co.uk
13.	British Institute of Innkeeping	Wessex House 90 Park Street Camberley GU15 3PT	☎ 01276 684449 reception@bii.org www.bii.org
14.	Tending Community Safety Partnership	Community Safety Manager Tending District Council Town Hall, Station Road Clacton on Sea Essex CO15 1SE	☎ 01255 686359
15.	Essex Racial Equality Council	13 Northlands Pavement Pitsea Centre Basildon Essex SS13 3DU	☎ 01268 465068 www.essexrec.org.uk
16.	Equity	Guild House Upper Martins Lane London WC2H 9EG	☎ 020 7379 6000 info@equity.org.uk www.equity.org.uk
17.	Institute of Acoustics	3 rd Floor St Peters House 45-49 Victoria Street St Albans Herts. AL1 3WZ	☎ 01727 848195 ioa@ioa.org.uk www.ioa.org.uk
18.	Musicians' Union	60-62 Clapham Road London SW9 0JJ	☎ 020 7840 5537 eastsoutheast@musiciansunion.org.uk www.musicians.org.uk
19.	Security Industry Authority	PO Box 8 Newcastle Upon Tyne NE82 6YX	☎ 08702 430100 www.sia.homeoffice.gov.uk
20.	The Portman Group	7-10 Chandos Street Cavendish Square London W1G 9DG	☎ 020 7907 3700 info@portmangroup.co.uk www.portmangroup.org.uk

APPENDIX D

TEMPORARY EVENT NOTICES

APPLICATION PROCESS / TIMESCALES

TEMPORARY EVENT NOTICES

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