



NOTICE OF MEETING

Meeting: Licensing Committee

Date and Time: Monday 20th September at 7.00 pm

Place: Council Chamber, Civic Offices, Fleet

Telephone Enquiries to: (01252) 622122 Ext 4133 (Mrs Sue Kirkwood)

Members: Butler C, Butler G, Davies, Harward, Healey, Henderson, Hunt, Ive, Murr, Radley JR.

G Bonner
Chief Executive

CIVIC OFFICES, HARLINGTON WAY
FLEET, HAMPSHIRE GU51 4AE

AGENDA

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AND BRAILLE ON REQUEST

1 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 19th July 2009 are attached for confirmation and signature as a correct record. (**Paper A**)

2 APOLOGIES FOR ABSENCE

To receive apologies for absence

3 DECLARATIONS OF INTEREST (PERSONAL OR PERSONAL AND PREDJUDICIAL)

4 CHAIRMAN'S ANNOUNCEMENTS

5 SEX ESTABLISHMENT POLICY

To consider the introduction of a policy to regulate the licensing of premises called as Sex Establishments (**Paper B**)

RECOMMENDATION

Members agree the proposed Statement of Policy for the licensing of premises classed as Sex Establishments for the purposes of consultation.

6 UPDATE ON THE CONSULTATION FOR THE LICENSING ACT 2003 POLICY

The Human Rights Act 1998 (the Act) has incorporated part of the European Convention on Human Rights into English Law. Any recommendations, either to take or not to take enforcement action, have been assessed to make sure that the decision is compatible with the Act. If there is a potential conflict, this will be highlighted in the individual report on the relevant item.

Date of Despatch: Tuesday 7th September 2009

LICENSING COMMITTEE

Date of meeting: 20TH SEPTEMBER 2010

Title of Report: SEX ESTABLISHMENT POLICY

Report of: Caroline Ryan, Community Safety and Licensing Manager

Cabinet Member: Cllr P Singh, Community Safety

1. PURPOSE OF REPORT

To consider the introduction of a policy to regulate the licensing of premises called as Sex Establishments.

2. OFFICER RECOMMENDATION

That Members agree the proposed Statement of Policy for the licensing of premises classed as Sex Establishments for the purposes of consultation.

3. BACKGROUND

The draft policy relates to applications for sex Establishment Licences covering

- Sex Shops
- Sex Cinemas
- Hostess Bars
- Sexual Entertainment venues

as set out in the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009

The Council must also adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendment under section 27 of the Policing and Crime Act 2009.

5. POLICY IMPLICATIONS

The introduction of a policy will guide the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities and will inform applicants and objectors or the parameters under which the Council will influence decisions.

6. FINANCIAL IMPLICATIONS

Costs will be incurred during the consultation period for advertising the policy.

7. CONCLUSIONS

It is recommended that Members agree the proposed Statement of Policy for the licensing of premises classed as Sex Establishments for the purposes of consultation.

Contact Details: **Caroline Ryan**
Community Safety and Licensing Manager
Caroline.ryan@hart.gov.uk
Tel: 01252 774062

APPENDICES / CONFIDENTIAL APPENDICES

A Draft Sex Establishment Policy

BACKGROUND PAPERS:

None

Hart District Council

Draft Sex Establishment Licensing Policy



DRAFT

I. INTRODUCTION

- I.1 This document sets out Hart District Council's draft policy (the 'Policy') regarding the regulation of sex establishments and the procedure relating to applications for sex establishment licences.

This document relates to applications for Sex Establishment Licences covering:

- Sex shops
- Sex cinemas
- Hostess bars
- Sexual entertainment venues

as set out in the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.

- I.2 The Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on the **[insert date]** and the amendment under Section 27 of the Policing and Crime Act 2009 on the **[insert date]**.
- I.3 The Council is mindful of possible concerns of the local community with regard to applications for sex establishment licences or premises in any locality and that there can be conflict between applicants and objectors. This Policy will guide the Council when considering applications for licences in balancing the conflicting needs of commercial interests, patrons, employees, residents and communities and will inform applicants and objectors of the parameters under which the Council will make licence decisions.
- I.4 The procedure sets out:
- The process for making an application; and
 - The process the Council will follow in considering and determining an application for a Sex Establishment Licence.

2. DEFINITIONS

These definitions are summary versions only; the precise legal definitions can be found in Schedule 3 of the Act.

The Act

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009).

The Policy

This refers to Hart's Sex Establishment Licensing Policy.

Relevant Locality

This is the locality where premises are situated or where the vehicle, vessel or stall is going to be used. The locality and the area that this covers is a matter for the local authority to decide. This Council has determined that Relevant Locality will be determined on a case by case basis for the purpose of decision making.

Character of the Relevant Locality

The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This Council has not defined what type of area would or would not be acceptable in terms of character. The Council will consider the character of the area on a case by case basis and will take into account such factors as: the uses and users of the area; how the area is perceived; the vision/plan for the area; the views of the planning authority.

The Council

This means Hart District Council.

Display of nudity

This means: in the case of a woman: exposure of her nipples, pubic area, genitals or anus; and in the case of men: exposure of his pubic area, genitals or anus.

Hostess Bar

This means:

- (a) any premises used for a business which includes the offering of the provision of companions for customers on the premises; or
- (b) any premises in respect of which any impression, by whatever means, is given to customers that an experience of a sexual nature is available on the said premises; or
- (c) any premises in respect of which any impression, by whatever means, is given to customers that alcoholic refreshments are available on the said premises despite the premises not being the subject of a premises licence or a club certificate under the Licensing Act 2003.

The Licensed Premises

This is the premises, vessel, vehicle or stall which is subject to a sex establishment licence. The premises will be in possession of all appropriate consents and permissions to operate. Note that licences are not required for the sale, supply or demonstration of birth control items.

The Organiser

This is any person who is responsible for the organisation or management of the Relevant Entertainment or the premises.

Permitted Hours

These are the hours of activity and operation that have been authorised under a Sex Establishment Licence.

Sex Article

A sex article is anything for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

Sex Shop

A sex shop is any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.

Sex Cinema

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures, however produced, which are concerned primarily with the portrayal of, or primarily deal with or relate to or are intended to stimulate or encourage sexual activity or acts of force or restraint which are associated with sexual activity or are concerned primarily with the portrayal of or primarily deal with or relate to genital organs or urinary excretory functions.

Sexual Entertainment Venue

A sexual entertainment venue is any premises where Relevant Entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. 'Relevant Entertainment' means any live performance or any live display of nudity of such a nature that, regardless of financial gain, it must reasonably be assumed to be provided solely or primarily for the purpose of sexually stimulating any member of the audience whether by verbal or other means.

3. GENERAL POLICY

Principles to be applied

3.1 The Act lists those people who are excluded from being able to hold a licence.

A licence cannot be granted:

- A. To anyone under 18 years of age
- B. To someone who has held a licence that was revoked in the last 12 months (from the date of revocation)
- C. To someone who has been refused a new or renewed licence within the last 12 months prior to the date of making the application
- D. To an individual who is not resident in an EEA state or has not been resident for six months prior to making of an application
- E. To a company not incorporated in an EEA state.

3.2 On determining an application the Council shall have regard to all relevant considerations, including any representations received and comments made by:

- Councillors
- Police
- Fire Authority
- Planning Authority
- Environmental Health
- Children and Young Peoples Services
- Licensing Authority
- Interested Parties (local residents/businesses)
- Any representations made by the applicant

3.3 The grounds on which an application for the grant, renewal or transfer of a licence may be refused are set out in the Act.

The Council may refuse a licence if:

- A. The applicant is unsuitable to hold a licence because they have been convicted of an offence or for any other reason;
- B. Were the licence to be granted, renewed or transferred, the business to which it relates would be managed or carried on for the benefit of a person other than the applicant, who would have been refused a licence if they had applied themselves;
- C. The number of sex establishments or sex establishments of a particular kind in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- D. The grant or renewal of licence would be inappropriate having regard to:
 - I. The character of the relevant locality;

- II. The use to which any premises in the vicinity are put; or
- III. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.4 The Council has not set a limit on the number of sex establishments or sex establishments of a particular kind that it thinks is appropriate for any Relevant Locality. Each application for the grant, refusal, renewal, transfer or variation of a licence will be determined by the Council on its merits on a case by case basis. This part of the Policy may be subject to change following any future review.

Character of the Relevant Locality

3.5 The Council will not normally grant or renew a licence for a Sex Establishment if the character of the Relevant Locality would make the grant or renewal inappropriate.

3.6 When considering whether the grant or renewal of a licence would be inappropriate having regard to the character of the Relevant Locality, the Council will have regard to the following:

- The proximity of residential premises, including any sheltered housing and accommodation of vulnerable people;
- The proximity of educational establishments to the premises;
- The proximity of places of worship to the premises;
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises;
- The proximity to shopping centres;
- The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive);
- Any adverse impact on crime and disorder and public nuisance in the Relevant Locality which the operation of the sex establishment is likely to generate;
- The nature and concerns of any objections received from residents or establishments in the Relevant Locality;
- Any evidence of complaints about noise and/or disturbance caused by the premises;
- Any current planning considerations;
- The proximity of other sex establishments;
- Whether there is planned regeneration of the area.

Layout, Character and condition of the Premises

3.7 When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the following:

- The type of activity to which the application relates;
- The duration of the proposed licence;

- The days and hours of operation of the activity;
- The layout and condition of the premises;
- The use to which other premises in the vicinity are put;
- The levels of crime and disorder in the area;

3.8 Sex establishments should not be functionally visible to passers by on retail thoroughfares or pedestrian routes. In more sensitive locations applicants should consider whether it would be appropriate to locate such premises at basement level or locate entrances away from retail thoroughfares or busy pedestrian routes.

Disability Access

3.9 Applicants are reminded of their duties under the Disability Discrimination Act 1995 and should provide such facilities so as to enable the admission of disabled people.

Suitability of the Applicant

3.10 The applicant will be required to demonstrate that she/he is a suitable person to hold a licence. In determining suitability, the Council will normally take into account:

- Previous knowledge and experience of the applicant;
- Any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area;
- Any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;
- Any other relevant reason.

3.11 The above is not an exhaustive list of considerations, but is indicative of the types of factors which may be considered in dealing with an application.

3.12 All applications for new licences for sex establishments, as described in the Act will be referred to the relevant Sub-Committee of the Council for decision.

Renewal Applications

3.13 Where a licence was in existence before the introduction of this Policy, this Policy will become a consideration when the licence is due for renewal.

3.14 When considering a renewal application the Council may take into account the criteria set out at paragraphs 3.6 to 3.10 above and:

- Past demonstrable adverse impact from the activity
- Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.

3.15 It should be noted that the Council in applying its decision-making discretion may consider it appropriate to refuse the renewal of the licence even where there has been no change in the character of the relevant locality or in the use to which any premises in the locality are put.

3.16 If a renewal application is not opposed, it shall be approved under authority delegated to relevant officer(s). All contested applications for renewal, as described in the Act shall be referred to the relevant Sub-Committee for decision.

Variation Applications

3.17 Where an application is made to vary any terms and conditions of an existing licence, whether on renewal or not, the Licensing Sub-Committee will take into account the criteria as set out in paragraphs 3.6 to 3.10, and 3.12 above.

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4. THE APPLICATION PROCESS

Making an Application

4.1 An application should be made in writing to:

Community Safety & Licensing
Hart District Council
Fleet
Hampshire
GU51 4AE

Telephone: 01252 622122
Fax: 01252 626866

4.2 Applications may also be made electronically via the Council's website at www.hart.gov.uk.

4.3 Applicants for a licence must complete the application form and submit to the Licensing Office together with:

- A set of floor plans, drawn to scale and showing all means of entry and exit, any parts used in common with any other building and indicating how the premises lie in relation to the street;
- A set of plans showing the existing and front elevation of the premises depicting all signage;
- A set of plans (scale 1:500) showing the sex establishment in relation to other premises within 100 metres;
- A set of plans (scale 1:50) showing the layout of the sex establishment;
- The correct fee as set by the Council.

4.4 As part of the application process, applicants are required to post an A3 notice at the proposed site for 21 days, from the date the application is lodged with the Council, setting out the application details. A specimen notice is available from the Licensing Office. The notice must be posted in a prominent position for the whole of that time and be easily legible by passers-by.

4.5 Applicants are also required to place a public notice in a local newspaper giving details of the application. A specimen notice is available from the Licensing Office. The newspaper notice should appear in the publication within 7 days of the application being lodged. The Chief Officer of Police must also be informed within 7 days of the application.

4.6 Officers from the Licensing Authority and the Fire Authority will inspect the premises to ensure that required technical standards are met. If works are required to bring the building up to standard, the applicant will be notified. Licences will not be issued until all required works are satisfactorily completed.

- 4.7 As part of the process the Licensing Authority will also consult the Environmental Health Department of the Council. If there is the possibility of noise nuisance, for example, from amplified music, an inspection may be carried out and noise insulation work recommended.
- 4.8 Comments on applications will also be sought from local Councillors, the Police, the Planning Authority and any other relevant person as deemed appropriate by the Council.
- 4.9 Applicants are warned that any person who, in connection with an application for the grant, renewal or transfer of a licence, makes a statement which s/he knows to be false in any material respect, or which s/he does not believe to be true, is guilty of an offence and liable to summary conviction of a fine not exceeding £20,000.
- 4.10 The Council will not determine an application for the grant of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.
- 4.11 Any licence approved does not constitute any approval under any other Acts. The applicant must ensure that all necessary consents and approvals are obtained prior to operation.

Renewal of Licence

- 4.12 An application to renew the licence must be made on the appropriate form prior to the expiry of the existing licence and must be accompanied by the relevant fee.
- 4.13 The Council will not determine an application for the renewal of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.
- 4.14 Where, before the expiry of a licence, an application has been made for its renewal, it shall remain in force even though the expiry date has passed, until the withdrawal of the application or its determination by the Authority.

Variation of Licence

- 4.15 The application form, together with relevant plans and the fee should be sent to the Licensing Office. Please note that applications for variation of licence are also subject to the site and newspaper notice requirements set out in paragraphs 4.4 and 4.5 above.
- 4.16 Variation applications relate only to proposed changes to such matters as the hours and area of the premises covered by the licence. Any changes in licensee must be the subject of a transfer application.

- 4.17 All variation applications for sex establishment licences will be referred to the relevant Sub-Committee for decision. Applicants must not operate any revised or varied arrangements until such an application has been approved and any revised or varied licence has been issued.

Transfer of Licence

- 4.18 The Council will not determine an application for the transfer of a licence unless the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the applicant and the premises.
- 4.19 Where, before the date of expiry of a licence, an application has been made to transfer, it shall be deemed in force with any necessary modifications until the withdrawal of the application or its determination, notwithstanding that the expiry date has passed or that the person to whom the licence is to be transferred is carrying on the business of the sex establishment.

Representations on an Application

- 4.20 Any person wishing to object to an application must submit a written representation within the specified 28 day consultation period, setting out the grounds of objection.
- 4.21 The Council will balance the interests of the applicant with those of the local community in reaching a decision on a licence application. Valid representations must be made within 28 days of the application being submitted. Representations made before the application is submitted can be taken into account.
- 4.22 Unless the person making a representation consents, their name and address shall not be revealed to the applicant.
- 4.23 The general terms of any objection must be provided to the applicant prior to the determination of the application. The report to the relevant Sub-Committee may have full details of the objections, including any actions/undertakings proposed by the applicant to address matters raised.
- 4.24 The Council shall give an opportunity of appearing before and of being heard by the relevant Sub-Committee of the Council:
- A. Before refusing to grant a licence, to the applicant;
 - B. Before refusing to renew a licence, to the holder; and
 - C. Before refusing to transfer a licence, to the holder and to the person to whom he desires that it shall be transferred.

- 4.25 Additionally, the applicant and any persons who made representations and who wish to attend the hearing will have the opportunity to address the Sub-Committee before the application is determined.
- 4.26 Where the Council refuse to grant, renew or transfer a licence, it shall, if required to do so by the applicant or the holder of the licence, give him a statement in writing of the reasons for its decision within 7 days of his request.

Duration of Licence

- 4.27 Sex establishment licences will normally expire on an annual basis, but may be issued for a shorter period if deemed appropriate.

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Licensing Policy Review

July 2010

Public Consultation

In January 2005 Hart District Council issued its first three year licensing policy. The policy explains how the council, as a licensing authority, promotes its licensing objectives whilst carrying out its functions under the Licensing Act 2003.

The current policy expires on 7th January 2011 and, although the general principles are still relevant, the licensing authority proposes to make some amendments to reflect current thinking and practice.

The following new or amended policy statements are proposed:

- 2.8 To achieve these objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The Council will enter appropriate partnership arrangements, and work closely with the police, fire authority, local businesses, community representatives and local people in meeting these objectives. Where appropriate, neighbouring authorities and parish councils will be consulted.

‘Pub watch’ scheme

- 3.8 The Fleet:SAFE Pubwatch scheme aims to improve the night time economy of Fleet and reduce violent crime and anti-social behavior by creating a safe environment. The concept provides a co-coordinated approach to improving Fleet Town Centre in the evening, by working in partnership with the licensed trade to improve the management of licensed premises, to promote the provision of safe drinking, reduce the number of serious assaults in the town centre and improve the physical environment of the town centre. The licensing authority actively supports these schemes and is keen to support the development of more schemes where there is demand.

Best Bar None

- 3.9 The licensing authority, via the “Pubwatch” scheme, is suggesting a possible adoption of the national “Best Bar None Scheme” in Hart. This provides an incentive for the operators of licensed premises to improve their standards of operation to the level of a commonly agreed national benchmark and provides a much needed opportunity for licensees to demonstrate to official agencies how well they manage their own businesses. The licensing authority is keen to encourage all licensees operating pubs, bars and clubs to apply for the award.

Risk assessments for significant events

- 3.13 All licensees that have live performers, (including musicians, Disc Jockeys and Master of Ceremonies) will be expected to undertake a comprehensive risk assessment to ensure that crime, disorder and public safety matters are identified and assessed. This risk assessment will include set criteria from; Hampshire Police, Highways, Health and Safety, Environmental Health, Hampshire Fire and Rescue, Licensing and Community Safety, and will take the form of a questionnaire. In order to ensure that this is carried out, Hart District Council have established a Safety Advisory Group, a multi agency group who are in the process of setting

minimum standards for applicants. This group includes; Police, Fire, Licensing, Health and Safety, Environmental Health and Traffic Management representatives.

Use of toughened glass and polycarbonates

- 3.14 The licensing authority will encourage the use of toughened glass-wear and polycarbonates where appropriate at licensed events or on licensed premises.

Smoking, drinking and eating outside

- 3.21. The licensing authority recognises that where gardens, tables and chairs are provided for smoking, drinking or eating outside, users can cause nuisance. Where outside facilities are provided, the licensing authority expects applicants to provide details in their application of:
- a. The location of open air areas.
 - b. How the outside areas will be managed to prevent noise, smell or obstruction and nuisance to neighbours and the public at large.

We want to hear your views

How you can have your say

By completing the form overleaf and sending to:

Licensing Team
Hart District Council
Civic Offices
Harlington Way
Fleet
Hants
GU51 4AE
Email: licensing@hart.gov.uk

For more information telephone David King (01252 774277) or Angela Semowo (01252 774496)

The Licensing Policy 2008-2011 can be downloaded from the council's website www.hart.gov.uk. **The draft policy for 2011-2013 will be available on the website from 31st September 2010**

The consultation period closes on **23rd December 2010.**

Have your say!

Hart District Council - Public Consultation

Review of the Licensing Policy 2010

1. What are your views on the proposed changes?

2. What other suggestions do you have for the licensing authority's policy statement to further promote the licensing objectives for :

- a. Ensuring public safety?
- b. Preventing public nuisance?
- c. Reducing crime and disorder?
- d. Protecting children from harm?

3. Do you think the policy strikes the right balance between addressing the needs of residents and neighbours with those of the licensees?

Any Other Comments:



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STATEMENT

OF

LICENSING POLICY

Valid from

1st January 2011

to

31st December 2013

HART DISTRICT COUNCIL

LICENSING ACT 2003

SECTION 5

Statement of Licensing Policy

2011 - 2013

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HART DISTRICT COUNCIL

LICENSING ACT 2003

SECTION 5

Statement of Licensing Policy

2011 - 2013

1.0 INTRODUCTION

1.1. **This document is Hart District Council's Statement of Licensing Policy in respect of its Licensing functions for the three-year period from 1st January 2011.**

1.2. It has been prepared in accordance with the provisions of the Licensing Act 2003 ("the Act") and the Guidance issued under Section 182 of the Act.

2.0 SCOPE AND PURPOSE

2.1. Hart District Council (HDC) is empowered as a Licensing Authority under the Licensing Act 2003 (herein referred to as "the Act"). As the Licensing Authority, HDC (herein referred to as "the Council") is responsible for licensing a range of activities under the Act.

2.2. The purpose of this document is to set out the policies and arrangements that the Council will normally apply and consider in exercising its functions, and particularly when making decisions on any licence application made under the Act. The document addresses a number of key subject areas and identifies a range of issues that will be considered as part of any license application.

2.3. In the interest of speed and efficiency the Council, where possible, will delegate licensing decisions and functions to officers of the Council. Where the matter to be decided is controversial in any way or the determination of the matter under delegated powers is precluded by law it will be decided by the Licensing committee (herein referred to as "the LC") or a Sub-Committee thereof. In all cases the administration and delegation of licensing functions will be exercised in accordance to Table 5.3.

2.4. Hart District is a mixed rural and urban area situated in the County of Hampshire and has about 250 premises which are likely to be licensed. These premises include:

- a. public houses and nightclubs

- b. off licences and off sales from supermarkets
 - c. businesses offering hot food between 11pm and 5am
 - d. hotels, guest houses, restaurants and other places that sell alcohol
 - e. private members clubs and social clubs
 - f. theatres and amateur dramatic groups
 - g. cinemas
 - h. premises where indoor sporting events take place
- 2.5. Licensed premises are an important part of the Hart District, contribute to the local economy, attract tourists and visitors, add to the vibrancy of towns and communities, and provide employment.
- 2.6. The purpose of licensing is to promote the licensing objectives on licensed premises, by qualifying clubs and at temporary events.
- 2.7. The four licensing objectives set out in the Act, covered in more detail later on, are:
- a. The prevention of crime and disorder;
 - b. Public safety;
 - c. The prevention of public nuisance; and
 - d. The protection of children from harm.
- 2.8. To achieve these objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The Council will enter appropriate partnership arrangements, and work closely with the police, fire authority, local businesses, community representatives and local people in meeting these objectives. Where appropriate, neighbouring authorities and parish councils will be consulted.
- 2.9. Licensing will endeavour to regulate licensing activities on licensed premises, qualifying clubs and temporary events, and conditions may be attached to various authorisations.
- 2.10. Licensable activities, identified under the Act, include:
- a. Retail sale of alcohol;
 - b. Supply of hot food or drink from premises between 11pm and 5am;
 - c. Supply of alcohol to club members and

d. Provision of entertainment listed below (known as “regulated entertainment”) to the public or club members or with a view to profit:

- i. Film exhibitions;
- ii. Performance of a play;
- iii. Indoor sporting events;
- iv. A boxing or wrestling entertainment;
- v. Live music performances;
- vi. Playing of recorded music;
- vii. Dance performances;
- viii. Provision of facilities for making music;
- ix. Provision of facilities for dancing.

2.11. The four main types of licence or authorisation are:

- a. Personal Licences – to licence individuals for the retail sale or supply of alcohol;
- b. Premises Licences – to licence premises for the retail sale of alcohol, the provision of regulated entertainment and/or late night refreshments;
- c. Club Premises Certificates – to license the supply of alcohol or the provision of regulated entertainment in certain clubs and
- d. Temporary Event Notices – to allow certain licensable activities on a temporary basis.

2.12. The Council recognizes that the best means of promoting the licensing objectives is through the co-operation and partnership of local authorities, responsible authorities, local business, performers, local people and those involved in child protection. It has been drawn up following consultation with these groups.

2.13. The Policy will be kept under review and where any amendments are considered necessary these will only be made after further consultation has taken place in accordance with Section 5(3) of the Act. A complete review and re-adoption of the Policy will take place every three years. Proper weight shall be given to the views of all those consulted, including:

- a. The Chief Officer of Police for Hart District;
- b. The Chief Officer of the Fire and Rescue Service for Hart District;
- c. Bodies representing local holders of premises licences;

- d. Bodies representing local holders of club premises certificates;
- e. Bodies representing local holders of personal licences;
- f. Bodies representing businesses and residents in the Councils area;
- g. Any other bodies the Council deems appropriate;
- h. Hampshire County Council Trading Standards and
- i. Hampshire County Council Child Protection team.

3.0 THE LICENSING OBJECTIVES

- 3.1. When dealing with Licensing matters the Council will promote and have regard to the four licensing objectives set out in the Act. These are:
 - a. The prevention of crime and disorder;
 - b. Public safety;
 - c. The prevention of public nuisance and
 - d. The protection of children from harm.
- 3.2. To achieve these objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The Council will enter appropriate partnership arrangements, and work closely with the responsible authorities, local businesses, community representatives and local people in meeting these objectives. Where appropriate, neighbouring authorities and parish councils will be consulted.

Prevention of Crime and Disorder

- 3.3. Under the Act the Council has a duty to promote the licensing objectives, and, a further duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District.
- 3.4. Licensed premises, especially those offering late night or early morning entertainment, alcohol and refreshment to large numbers of people can be a source of crime and disorder problems. The Council will expect the applicant to produce an operating schedule to satisfactorily address any anticipated problems of crime and disorder and indicate the measures that the applicant proposes to take to address these problems.
- 3.5. Such measures might include use of CCTV both within and outside the premises, metal detection and search facilities, measures to prevent the use or supply of illegal drugs, employment of licensed door supervisors and other appropriately trained staff and participation in an appropriate Watch Scheme or other body designed to ensure effective liaison with the local community. These suggested measures do not form an exhaustive list and the Council will expect applicants to propose measures appropriate to their particular business/premises.
- 3.6. The Council will consider attaching conditions to licences or certificates to deter and prevent crime and disorder where appropriate and necessary. These may include model conditions from the Department of Culture, Media and Sport's (DCMS) guidance under Section 182. When determining applications the Council will focus primarily on the impact of the activities taking place at the licensed premises will have on members of the public living, working or engaged in normal activity in the vicinity of the premises concerned.

- 3.7. The Council will expect licensed operators of venues likely to be affected by drugs to take all reasonable steps to prevent the taking and supply of such controlled substances on their premises. Details of the measures that will be taken to prevent such criminal activity should be included in the operating schedule.
- 3.8. The Fleet:SAFE Pubwatch scheme aims to improve the night time economy of Fleet and reduce violent crime and anti-social behavior by creating a safe environment. The concept provides a co-coordinated approach to improving Fleet Town Centre in the evening, by working in partnership with the licensed trade to improve the management of licensed premises, to promote the provision of safe drinking, reduce the number of serious assaults in the town centre and improve the physical environment of the town centre. The licensing authority actively supports these schemes and is keen to support the development of more schemes where there is demand.
- 3.9. The licensing authority, via the “Pubwatch” scheme, is suggesting a possible adoption of the national “Best Bar None Scheme” in Hart. This provides an incentive for the operators of licensed premises to improve their standards of operation to the level of a commonly agreed national benchmark and provides a much needed opportunity for licensees to demonstrate to official agencies how well they manage their own businesses. The licensing authority is keen to encourage all licensees operating pubs, bars and clubs to apply for the award.

Public Safety

- 3.10. In addition to the Council’s duty to promote the licensing objectives the Council has additional duties relating to public safety under other statutory provisions.
- 3.11. The Act covers a wide range of premises that require licensing including cinemas, concert halls, theatres, nightclubs, public houses, cafes, restaurants, fast food outlets and takeaways. Each type of premises presents a mixture of risks, with some being common to all premises and some being unique to specific operations.
- 3.12. The Council will expect operating schedules to satisfactorily address these risks and detail how the premises will be properly managed and maintained to ensure public safety at all times.
- 3.13. All licensees that have live performers, (including musicians, Disc Jockeys and Master of Ceremonies) will be expected to undertake a comprehensive risk assessment to ensure that crime, disorder and public safety matters are identified and assessed. This risk assessment will include set criteria from; Hampshire Police, Highways, Health and Safety, Environmental Health, Hampshire Fire and Rescue, Licensing and Community Safety, and will take the form of a questionnaire. In order to ensure that this is carried out, Hart District Council have established a Safety Advisory Group, a multi agency group who are in the process of setting minimum standards for applicants. This group includes; Police, Fire, Licensing, Health and Safety, Environmental Health and Traffic Management representatives.
- 3.14. The licensing authority will encourage the use of toughened glass-wear and polycarbonates where appropriate at licensed events or on licensed premises.

Prevention of Public Nuisance

- 3.15. Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working in the vicinity of the premises. Types of nuisance will vary but might include noise, vibration, light pollution and smells.
- 3.16. The Council will expect operating schedules to have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. The Council will expect the schedule to demonstrate how such potential nuisances will be addressed.
- 3.17. The licensing authority will encourage the use of toughened glass-wear and polycarbonates where appropriate at licensed events or on licensed premises.
- 3.18. The Council will expect the applicant to propose and take all reasonable steps to prevent disturbance to local residents by sound leakage, eg from music, patrons, air handling or other equipment.
- 3.19. If sound leakage is identified the applicant must propose measures to deal with this. These might include keeping doors and windows closed and providing adequate mechanical ventilation, installing sound limiters to prevent sound exceeding the appropriate level and installing soundproofing measures to contain sound and vibration.
- 3.20. Other measures to prevent potential nuisance might include display of prominent notices at all exits asking patrons to leave quietly and respect local residents, arranging for taxis or private hire vehicles to take customers away from the premises and instigating queuing systems, imposing bans on patrons who regularly leave in a noisy fashion, and providing receptacles for refuse disposal e.g. bottles, food wrappings, on leaving the premises.
- 3.21. The licensing authority recognises that where gardens, tables and chairs are provided for smoking, drinking or eating outside, users can cause nuisance. Where outside facilities are provided, the licensing authority expects applicants to provide details in their application of:
 - a. The location of open air areas.
 - b. How the outside areas will be managed to prevent noise, smell or obstruction and nuisance to neighbours and the public at large.
- 3.22. The above paragraphs are not an exhaustive list. The Council will give serious consideration to the revocation and / or review of a licence where persistent complaints of public nuisance are received.

Protection of Children from Harm

- 3.23. This is an important objective. The Council will not normally impose conditions prohibiting the admission of children to premises, believing this should remain a matter of discretion for the licensed operator. However it will, where it considers necessary, impose conditions designed to protect children.
- 3.24. When considering applications for premises licences, the Council will take into account the history of a particular premises and the nature of the activities proposed to be provided there when considering whether any additional controls are necessary to protect children from harm. Additional controls may be necessary, for example where:
- a. members of staff have convictions for serving alcohol to minors or the premises has a reputation for under-age drinking;
 - b. there has been a known association with drug taking or dealing;
 - c. there is a strong element of gambling on the premises or
 - d. entertainment of an adult or sexual nature is provided.

Please note that the Licensing Authority can only attach conditions if they have received relevant representations, or if the applicant has outlined such matters within the operating schedule.

- 3.25. When deciding whether additional controls or conditions should be imposed the Council will consider each application on its individual merits.
- 3.26. In such cases, it may, in exceptional circumstances, be necessary to impose a complete prohibition on the admission of children, although this will happen only rarely. The type of controls the Council might impose may include:
- a. Limitations on the hours when children may be present;
 - b. General restrictions on the age of persons being allowed admission to the premises;
 - c. Limitations or exclusions when certain activities are taking place or requiring children to be accompanied by an adult or
 - d. Full exclusion of people under 18 from the premises when particular licensable activities are taking place.
- 3.27. Where there is provision of entertainment specifically for children (e.g. a children's disco or pantomime) the Council will require the presence of sufficient adults to control the access and egress and ensure the safety of the children attending. The licensed operator should consult the Hampshire County Council Area Child Protection Team to ascertain the appropriate adult coverage required for the particular premise and activity planned.

- 3.28. Where the exhibition of films is permitted the Council will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Council and then only with appropriate safeguards. In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Council will, provided adequate notice has been given, classify the films concerned. In order to achieve consistency and the protection of children the Council will use the guidelines published by the BBFC.
- 3.29. Licensees may decide to volunteer prohibitions or restrictions in their own operating schedules, because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where appropriate these voluntary prohibitions or restrictions will become conditions attaching to the licence and be enforceable as such.
- 3.30. The Council will consult with the Hampshire County Council Child Area Protection Team on any application that indicates there may be concerns over access of children.
- 3.31. The Act specifies a number of offences that place children at risk of harm in licensed premises. The Council will work closely with the police and other relevant agencies to ensure the appropriate enforcement of the law, especially relating to the sale or supply of alcohol to children.

Other Legislation

- 3.32. The Council recognizes that there should be a clear separation of the licensing systems and other controls and that licensing applications will be viewed independently of planning applications. To achieve this, close liaison will be maintained between the Licensing Committee and the Planning Committee ("LC" and "PC"). Please note any representations received from the planning authority must relate to the licensing objectives. The LC, where appropriate, will provide reports to the PC on the situation regarding licensed premises in the area including the general impact of alcohol-related crime and disorder.
- 3.33. Prior to submitting an application to the licensing authority the Applicant should ensure that there is appropriate planning permission for the hours and activities for which application is being made.
- 3.34. Furthermore premises must comply with all other relevant legislation, for example:
- a. Food Safety Act 1990 (Food Hygiene);
 - b. Health & Safety at Work etc Act 1974;
 - c. Disability Discrimination Act 1995 and 2004 and
 - d. Building Regulations

- 3.35. The Council will seek to avoid duplication with other regulatory regimes as far as possible. However, if other regulations do not cover the unique circumstances that arise in connection with, for example, entertainment at specified premises then additional controls will be imposed.
- 3.36. In formulating its Licensing Policy the Council has had regard to guidance issued by the Department of Culture, Media and Sport ("DCMS") under Section 182 of the Act. When determining applications the Council will have regard to both the guidelines issued by the Secretary of State for the DCMS and the Licensing Policy ("the Policy") as set out in this document.
- 3.37. Unopposed licence applications will be dealt with by a Licensing Officer who has been given delegated powers to issue licences on behalf of the Council. If the application for licence has become controversial in any way or the determination of the matter under delegated powers is precluded by law then it will be decided by the Licensing Sub-Committee.

4.0 TYPES OF LICENCE

PERSONAL LICENCES

- 4.1. In general a personal licence must be granted to any applicant aged 18 or over who possesses a relevant qualification or is a person of a prescribed description as determined by the DCMS. A licence will not be granted to any applicant who has forfeited a personal application in the 5 year period ending with the date of the application
- 4.2. The police can oppose an application if an applicant has a relevant unspent conviction or a comparable foreign offence. For this purpose the Council requires that every application for a Personal Licence be accompanied by a 'Standard Disclosure Certificate' from the Criminal Records Bureau.
- 4.3. Applicants who meet the statutory criteria in terms of age, qualifications and non-forfeiture, as mentioned above, will be granted a licence. Applications that do not meet those criteria will be rejected.
- 4.4. If the applicant meets the criteria mentioned at paragraph 4.3 above but has been convicted of a relevant offence or comparable foreign offence and the offence is unspent under the Rehabilitation of Offenders Act 1974 the police will be notified of this fact. If the Chief Officer of Police is satisfied that the issue or renewal of the licence would undermine the crime prevention objective then the Chief Officer of Police must serve an objection notice on the Council within 14 days.
- 4.5. Relevant offences are listed in Appendix I
- 4.6. If such an objection is received the application will be determined by a Licensing Sub-Committee in accordance with the Council's approved hearing procedures (which can be obtained from the council offices or the Hart District Council website). There will be no need for a hearing if the applicant, Council and Chief Officer of Police agree that a hearing is not necessary.
- 4.7. If a hearing is held, all representations made to the Licensing Sub-Committee which are relevant to the grant or refusal of the licence will be taken into consideration. These may include the nature of any offences, the time since their commission and any mitigating circumstances. The Council will reject the application if it considers it is necessary in the interests of crime prevention to do so and grant the application in every other case.
- 4.8. If there is a police objection on crime prevention grounds the normal course of events will be refusal unless there are exceptional and compelling reasons to grant the application.
- 4.9. The Council expects every application for a personal licence to be accompanied by a standard criminal record disclosure form from the Criminal Records Bureau. This will

assist the Council in determining whether the applicant has any relevant unspent convictions.

- 4.10. Applicants who originate from or who have lived in foreign jurisdiction will be required to provide a document from that jurisdiction equivalent to the criminal records disclosure form or swear a statutory declaration confirming that they have not been convicted outside of England and Wales of a relevant offence or equivalent offence. Applicants are warned that the making of a false declaration for the purpose of obtaining a licence is a criminal offence for which they will be prosecuted.

Designated Premises Supervisors

- 4.11. The sale and supply of alcohol carries a great responsibility and to ensure there will always be a specified person identifiable with a licensed premises the Council will require one personal licence holder declared as the Designated Premises Supervisor for each Premises Licence.
- 4.12. An application for designation of a Premises Supervisor must be accompanied by a form showing that he or she consents to taking on this role. The Council will amend the Premises Licence with the details of the Premises Supervisor.
- 4.13. The applicant must also notify the local Northeast Hampshire Constabulary Chief Inspector, at the address listed in appendix 2 of the name of the declared Designated Premises Supervisor. The Police will be able to object to the declared person where they believe the appointment would be contrary to the crime prevention objective.

PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

Applications

- 4.14. A premises licence is required for any premises which are is used for one or more licensable activity as defined at paragraph 2.6 above. Those who may apply for licences are defined in Section 16 of the Act. Applications for licences must be accompanied by the appropriate fee, a plan of the premises and an operating schedule in the form that is prescribed by the Secretary of State. Fee levels and prescribed forms may be viewed on the websites of the DCMS and the Council or can be obtained from the Council's Licensing section.
- 4.15. The requirements in relation to applications for premises licences are set out in Section 17 of the Act and the Council will not be able to consider applications which do not comply with those requirements.
- 4.16. The Council will consider applications in relation to its own premises and will treat them in an impartial manner.

Operating Schedules

- 4.17. The operating schedule forms an important part of the licence application and holders of premises licences will be expected to comply with the operating schedule once a

licence has been granted. Applicants will be expected to demonstrate how they intend to be good neighbours to residents and other business interests in the area. In addition, applicants will be expected to propose practical measures to prevent disturbance to local residents and to indicate what action will be taken to prevent or reduce noise emanating from the premises.

- 4.18. The Council will expect the operating schedule to indicate the arrangements which will be made for selling alcohol. Schedules will need to address how, as far as possible, purchases will not be made by customers who are under age, or who appear to be likely to consume alcohol in the vicinity of the premises contrary to any legal restrictions imposed in respect of that area.
- 4.19. Where alcohol is sold at a checkout in conjunction with other general groceries the operating schedule should make clear the training arrangements for staff at the checkout to ensure they are fully conversant with the licensing requirements.
- 4.20. The operating schedule should also detail what action would be taken to prevent the sale of alcohol to any person who is intoxicated or acting in a disorderly manner.
- 4.21. Operating Schedules should indicate measures that will be put in place to deal with any nuisance that may occur as a result of a licence being granted.
- 4.22. Furthermore, the Council will expect the construction of premises to comply with all the requirements of health and safety at work, building regulations, fire safety legislation and any other legislation that may be relevant. Underpinning all aspects of the operating schedule should be the licensing objectives and applicants should put forward positive measures by which these objectives might be promoted.
- 4.23. Council officers will discuss proposed conditions with applicants in advance with a view to achieving a mutually agreeable level of protection to the public and fulfillment of the licensing objectives.

Licence Conditions

- 4.24. Any conditions which are attached to premises licences will focus on matters which are within the control of individual licensees. This means that attention will centre on the premises themselves and the immediate vicinity surrounding those premises. The licensing legislation will not be used as a mechanism for the general control of anti-social behaviour once they are away from the premises and thus beyond the direct control of the licensee.
- 4.25. Conditions will only be imposed to the extent the Council considers them necessary to ensure that the licensing objectives are fulfilled. Where appropriate the Council will select conditions taken from the guidance under Section 182 of the Act. The Council is aware that there is substantial protection provided by other statutory provisions and conditions will not be imposed that duplicate this protection.

- 4.26. Council officers will discuss proposed conditions with applicants in advance with a view to achieving a mutually agreeable level of protection to the public and fulfillment of the licensing objectives.

Operating Hours

- 4.27. When determining applications the Council will have regard to guidance issued by the DCMS. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will be balanced against the wider benefits to the community.
- 4.28. The Council will therefore endeavour to strike a fair balance between the needs of licence holders, patrons of the licensed premises and the effect those licensed premises will have on local residents particularly with regard to noise and disturbance.
- 4.29. Where an applicant wishes to apply to extend their current opening hours the Council will expect the operating schedule to detail the measures to be taken to ensure that the licensing objectives are addressed. The Council will consider seriously representations made to limit the hours of operation of premises situated in mainly residential areas.
- 4.30. Where voluntary arrangements cannot be obtained to stagger closing times or such arrangements are unsuccessful and problems of nuisance for local residents or businesses arise, the Council will consider whether it is appropriate to limit the hours of individual licensed premises. This will be particularly the case in noise sensitive areas.
- 4.31. Longer opening hours are considered to be acceptable, in principle, for premises in commercial areas with high levels of public transport accessibility. However, in all cases, the granting of a licence will depend on impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, people coming and going, crowds and queuing and whether any impact is particularly unacceptable late at night.
- 4.32. The Council will consider every application for extended hours on its merits. In particular it will take the following into consideration:
- a. Whether the premises is located in a predominantly commercial areas;
 - b. Whether there is an appropriate amount of car parking, readily accessible to the premises, and in places where vehicular movement will not cause demonstrable adverse impact upon local residents;
 - c. Whether the operating schedule agreed with Council officers indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance;

- d. Whether the licensed activity, particularly if located in areas of the highest levels of recorded crime (as identified in the Crime and Disorder Audit), may result in a heightened level of crime and anti-social behaviour;
- e. Whether the licensed activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it;
- f. Whether there will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;
- g. Whether there is a high level of public transport accessibility to and from the premises at the appropriate times and
- h. Whether the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets.

Consideration of the impact of licensed activities

- 4.33. When considering whether any licensed activity should be permitted, the Council will assess whether the activity is likely to cause unacceptable adverse impact on others; in particular, local residents. In presenting applications the Applicant should consider these matters including:
- a. The type of use, the number of customers likely to attend the premises and the genre of customers at the time of the application;
 - b. The proposed hours of operation;
 - c. The level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
 - d. The means of access to the premises which have customer entrances and exits on the principal pedestrian routes;
 - e. The level of likely car parking demand on surrounding residential streets and its effect on local residents, in comparison with the existing situation; and the effect on residential parking and the movement of priority traffic;
 - f. The cumulative impact of licensed premises in an area;
 - g. The scope for mitigating any impact and
 - h. How often the activity occurs.

- 4.34. In considering any application, which is already licensed the Council will take into account evidence of:
- a. past demonstrable adverse impact on local residents;
 - b. demonstrably unacceptable levels of car parking in surrounding residential streets;
 - c. appropriate measures put into effect by the Applicant to mitigate against adverse impacts or
 - d. where measures previously highlighted have not yet been acted upon, a licence may be granted for a limited time only.
- 4.35. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. For instance, it would not be appropriate for large numbers of patrons to exit into a residential area as opposed to directly to and from nearby transport services.
- 4.36. The aim is to achieve a balanced approach to these various conflicting issues.
- 4.37. The Council appreciates that the licence premise operator will face difficulties preventing anti-social behaviour beyond the close vicinity of the licensed premises.
- 4.38. In undertaking its licensing function, the licensing authority is also bound by other legislation, including :
- a. Crime and Disorder Act 1998 - s17 requires the Council to do all that it reasonably can to prevent crime and disorder in the District;
 - b. Human Rights Act 1998 - this gives effect to the European Convention of Human Rights makes it unlawful for the Council to act in a way that is incompatible with a Convention right;
 - c. Environmental Protection Act 1990 – gives the Council powers to impose duties to keep public places clear of litter and clean
 - d. Health and Safety at Work Act 1974 – places a legal responsibility upon the Council to protect the safety of employee and the public where ‘reasonably practicable’.
 - e. Anti - Social Behaviour Act 2003 – provides the Police and Council with a range of powers to tackle nuisance crime and low level criminality.
- 4.39. Additionally, the Council will consider applications with reference to other adopted policies as may be relevant such as the Local Plan or Local Development Framework.

Cumulative Effect

- 4.40. In determining an application the Council will take into account, in the interests of public safety and the avoidance of nuisance, crime and disorder, the cumulative effect that a concentration of premises in one area may have. Such a concentration of licensed premises can attract customers to the area that results in an impact on the surrounding area beyond the control of the individual Licensees.
- 4.41. The Council will consider every application on its individual merits and may impose conditions to address problems of accumulative effect.
- 4.42. The Council will consider the adoption of a special policy refusing new premises licences or club premises certificates in areas where it believes the granting of anymore will undermine the licensing objectives.
- 4.43. Due to the lack of large urban areas in the District, the Council does not, at this stage, anticipate that such a policy will be necessary. However, if the Council becomes aware that cumulative impact is a problem it will consider adopting a special policy. Before doing so it will take the following steps:
- a. identification of serious and chronic concern from a responsible authority or representatives of local residents about nuisance, crime or disorder;
 - b. consideration of whether it can be demonstrated that the nuisance, crime or disorder arises as a result of customers from licensed premises , and identification of the area from which the problems arise and the boundaries of that area and
 - c. assessment of the causes of those problems.
- 4.44. The Council will not use such policies solely:
- a. As grounds for removing a licence when representations are received about problems with existing licensed premises or
 - b. To refuse variations to a licence, except where the variations are directly relevant to the policy, for example, where the application is for a significant increase in the capacity limits.
- 4.45. The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a large range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community. It therefore follows that, even if a special policy has been adopted in relation to a particular area there may be circumstances where a licence will be approved as it is unlikely to add significantly to the problem.

Sex Related Activities

- 4.46. Where the activities proposed under the licence include those of a sex related nature (e.g. topless waitresses, striptease, and table dancing) the Council would take into account the increased risk to the licensing objectives. For the sake of convenience the term “striptease” in this part of the policy should be taken to refer to any

entertainment or service involving exposure of private parts or the sexual stimulation of patrons.

- 4.47. The Council will not normally grant licences which involve a sex related element to take place in premises near schools, churches, hospitals, youth clubs or other place where significant numbers of children are likely to attend.
- 4.48. Where such licences are granted it will impose conditions designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems. For example, the area proposed for striptease shall be:
- a. in a position where the performance cannot be seen from the street;
 - b. in a designated area of the premises with segregation from the audience;
 - c. in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.
- 4.49. Whilst striptease entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice shall be displayed at each entrance to the premises in a prominent position, so that it can be easily read by persons about to enter the premises, in the following terms:

ADULTS ONLY

NO PERSON UNDER 18 WILL BE ADMITTED

- 4.50. To prevent children seeing unsuitable advertisements the Council will seek to attach a condition banning all external advertising of the sex related activity at the premises or nearby.
- 4.51. In considering the granting of applications involving striptease the Council will also have regard to the increased risk of nuisance to nearby residents and will consider rejecting the application or attaching appropriate conditions.

Other Controls

- 4.52. Other mechanisms are available to address bad behaviour in the areas around licensed premises. The Council will consider the following:
- a. Planning controls;
 - b. Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of a Council;
 - c. Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;

- d. Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices;
- e. The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- f. The confiscation of alcohol from adults and children in designated areas;
- g. Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises;
- h. The power of the police, other responsible authority or a local resident or business to seek a review (possible revocation) of the licence or certificate in question and
- i. Powers available to Environmental Health Officers under the Antisocial Behaviour Act 2003

Other Strategies

- 4.53. In determining a licence application the overriding principle adopted by the Council will be that each application will be determined on its individual merits.
- 4.54. It is the policy of the Council that when considering conditions there should be openness, transparency and reasonableness. Consequently officers will seek to discuss proposed conditions in advance with the applicant with the aim of achieving a mutually agreeable level of protection to the public and fulfillment of the licensing objectives. When attaching conditions the Council will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.
- 4.55. The Council acknowledges the advice received from the DCMS that the views of vocal minorities should not be allowed to predominate over the general interests of the community.
- 4.56. The Council, where possible, will facilitate mediation through:
 - a. Identification of potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents;
 - b. Offering mediation forums to identify, discuss and where possible resolve potential issues between applicants, relevant statutory agencies and/or local residents and interested groups or
 - c. Negotiation, if possible, of potential conditions to reflect resolutions of mediation forums.

PROVISIONAL STATEMENT

- 4.57. Where premises are being proposed, altered or constructed applicants will need to apply for a Provisional Statement, which will be dealt with in the same way as a Premises Licence

TEMPORARY EVENT NOTICES

- 4.58. Where there is an event which includes regulated entertainment or sale of alcohol for less than 500 attendees and for a period of less than 96 hours, a Temporary Events Notice (T.E.N.) will need to be served on the Council at least ten working days beforehand. The premises user must also serve a copy of the notice on the local Chief of Police at least ten days before the day the event starts.
- 4.59. Further restrictions are as follows:
- a. The number of times a T.E.N. may be given in a calendar year is
 - i. 50 for a personal licence holder and 5 for any other person and
 - ii. 12 in respect of any particular premises
 - b. The maximum aggregate duration of the periods covered by the T.E.N. at any individual premises is 15 days
- 4.60. There is no requirement for an authorisation from the Council, but it will acknowledge receipt and enter the event in a register. It does not relieve the premises from the requirements of planning legislation.
- 4.61. The Police can issue an objection notice within 48 hours of being notified; this can be later withdrawn however. On receipt of a relevant objection from the Police, the Council will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 4.62. It is in the applicant's interests to serve a T.E.N. at the earliest opportunity. Applicants are also reminded of the immediate closure powers available to the police and others (see 4.47 above).

5.0 ENFORCEMENT

- 5.1. The Council recognises the importance of enforcement to the overall effectiveness of the policy and is committed to continue to undertake enforcement measures and proceedings, in partnership with the Police and other statutory agencies, against unlicensed premises and breaches of licence conditions.
- 5.2. The Council has adopted new enforcement policies which ensure the principles of “Better Regulation” and will continue to review procedures and develop ways to target high-risk licensed premises and ensure compliance with the licensing objectives. The Licensing Authority has established protocols with the local Police, Fire and Rescue Services, Trading Standards and Community Safety on enforcement. All enforcement is conducted in accordance with the Enforcement Concordat of the Council.

Administration and Delegation of Functions

- 5.3. Decisions on all licensing matters will be taken in accordance with an approved scheme of delegation. Where legal and appropriate the Council will delegate decisions at officer level to speed the process. A proposed scheme of delegation is as follows:

Matter	Licensing Sub-Committee	Council Officers
Application for personal licence	If police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If relevant representation made	If no relevant representation made
Application for provisional statement	If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If police objection	All other cases
Request to be removed as designated premises supervisor		All cases

Application for transfer of premises licence	If police objection	All other cases
Applications for interim authorities	If police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	

6 TABLES AND CHAIRS OUTSIDE PREMISES

- 6.1. The placement of tables and chairs on the public highway (whether the public highway is pavement or roadway) will need the prior consent of Hampshire County Council Highways Authority.

Policy

- 6.2. The Council will normally only allow encroachment onto the public highway during operating hours from dawn to dusk. Outside these hours the table and chairs should be removed.
- 6.3. If these hours lead to adverse impacts to the safety and amenity of local residents they may be reduced on renewal unless appropriate measures have been agreed with the Council to mitigate these impacts.
- 6.4. The requirements of the Local Authority (Alcohol Consumption in Public Places) Regulations 2001, which restricts alcohol consumption in designated areas, will need to be considered in relation to the provision of tables and chairs on the public highway.

APPENDIX I – PERSONAL LICENCE: RELEVANT OFFENCES

Schedule 4, Licensing Act 2003

- 1 An offence under this Act.
- 2 An offence under any of the following enactments-
 - (a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing);
 - (b) the Licensing Act 1964 (c. 26);
 - (c) the Private Places of Entertainment (Licensing) Act 1967 (c. 19);
 - (d) section 13 of the Theatres Act 1968 (c. 54);
 - (e) the Late Night Refreshment Houses Act 1969 (c. 53);
 - (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);
 - (g) the Licensing (Occasional Permissions) Act 1983 (c. 24);
 - (h) the Cinemas Act 1985 (c. 13);
 - (i) the London Local Authorities Act 1990 (c. vii).
- 3 An offence under the Firearms Act 1968 (c. 27).
- 4 An offence under section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5 An offence under any of the following provisions of the Theft Act 1968 (c. 60)-
 - (a) section 1 (theft);
 - (b) section 8 (robbery);
 - (c) section 9 (burglary);
 - (d) section 10 (aggravated burglary);
 - (e) section 11 (removal of articles from places open to the public);
 - (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
 - (g) section 13 (abstracting of electricity);
 - (h) section 15 (obtaining property by deception);
 - (i) section 15A (obtaining a money transfer by deception);
 - (j) section 16 (obtaining pecuniary advantage by deception);
 - (k) section 17 (false accounting);
 - (l) section 19 (false statements by company directors etc.);
 - (m) section 20 (suppression, etc. of documents);
 - (n) section 21 (blackmail);
 - (o) section 22 (handling stolen goods);
 - (p) section 24A (dishonestly retaining a wrongful credit);
 - (q) section 25 (going equipped for stealing etc.).
- 6 An offence under section 7(2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7 An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)-
 - (a) section 4(2) (production of a controlled drug);
 - (b) section 4(3) (supply of a controlled drug);
 - (c) section 5(3) (possession of a controlled drug with intent to supply);

- (d) section 8 (permitting activities to take place on premises).
- 8 An offence under either of the following provisions of the Theft Act 1978 (c. 31)-
 (a) section 1 (obtaining services by deception);
 (b) section 2 (evasion of liability by deception).
- 9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2)-
 (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.);
 (b) section 170B (taking preparatory steps for evasion of duty).
- 10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c. 7)-
 (a) section 8G (possession and sale of unmarked tobacco);
 (b) section 8H (use of premises for sale of unmarked tobacco).
- 11 An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under section 18 or 19 of that Act).
- 12 An offence under the Firearms (Amendment) Act 1988 (c. 45).
- 13 An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)-
 (a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);
 (b) section 107(3) (infringement of copyright by public performance of work etc.);
 (c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent);
 (d) section 297(1) (fraudulent reception of transmission);
 (e) section 297A(1) (supply etc. of unauthorised decoder).
- 14 An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52)-
 (a) section 3A (causing death by careless driving while under the influence of drink or drugs);
 (b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);
 (c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).
- 15 An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol-
 (a) section 14 (selling food or drink not of the nature, substance or quality demanded);
 (b) section 15 (falsely describing or presenting food or drink).
- 16 An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
- 17 An offence under the Firearms (Amendment) Act 1997 (c. 5).
- 18 A sexual offence, within the meaning of section 161(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
- 19 A violent offence, within the meaning of section 161(3) of that Act.
- 20 An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).

APPENDIX 2 – RESPONSIBLE AUTHORITIES

Responsible Authorities under the 2003 Licensing Act

<p>Police The Admin Office Aldershot Police Station Wellington Avenue Aldershot Hampshire GU11 1NZ Tel: 0845 0454545 e-mail: northeast.hants.police@hampshire.pnn.police.uk</p>	<p>Trading Standards: Head of Safety and Standards Hampshire County Council Trading Standards Service Montgomery House Monarch Way Winchester Hampshire SO22 5PW Tel: 01962 833620 e-mail: liquor.licensing@hants.gov.uk</p>
<p>Fire Service Hampshire Fire and Rescue Service Service Delivery (Community Safety Delivery) Protection Department Southsea Fire Station Somers Road Southsea Hampshire PO5 4LU e-mail: csprotection.admin@hantsfire.gov.uk</p>	<p>Public Nuisance and Public Safety: Environmental Health Hart District Council Civic Offices Harlington Way Fleet Hampshire GU51 4AE Tel: 01252 774421 e-mail: eh@hart.gov.uk</p>
<p>Child Protection Service: Team Manager R&A Aldershot Area Office Old Town Hall Grosvenor Road Aldershot GU11 3DP</p>	<p>Planning Authority: Development Control Hart District Council Civic Offices Harlington Way Fleet Hampshire GU51 4AE Tel: 01252 774419 e-mail: help.desk@hart.gov.uk</p>
	<p>Health and Safety Executive: <i>(Only for premises that are enforced by the HSE)</i> Priestly House Priestly Road Basingstoke Hampshire RG24 9NW Tel: 01256 404000</p>

LICENSING COMMITTEE

Date and Time: Monday 20th September 2010 at 7pm

Place: Council Chamber, Civic Offices, Fleet

Present:

COUNCILLORS:

Councillor G Butler (Vice Chairman)

Councillors: Butler C, Evans, Healey, Ive, Kennett, Radley JR

OFFICERS IN ATTENDANCE

D Anthony	Solicitor, Shared Legal Services
Caroline Ryan	Community and Safety Manager
Sue Kirkwood	Democratic Services Officer

7 MINUTES OF THE PREVIOUS MEETING

The attached minutes were agreed as an accurate record of the meeting held on 19th July 2010

8 APOLOGIES FOR ABSENCE

Apologies were received from Councillors Davies and Murr

9 DECLARATION OF INTERESTS (PERSONAL OR PERSONAL AND PREJUDICIAL)

There were no declarations of interest

10 CHAIRMAN'S ANNOUNCEMENTS

None

11 SEX ESTABLISHMENT POLICY

The committee's legal advisor informed members of the requirement to adopt the amended legislation as detailed in the report and warned that if this process was not completed the licensing authority would not be able to determine applications for such establishments once the Act came into force.

The policy was discussed in great detail and several amendments were made for both clarity and accuracy.

It was **RESOLVED**:

1. That the committee recommends to Council that they should adopt the new legislation contained within schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendment under section 27 of the Policing and Crime Act 2009.
2. That the amended Statement of Policy for the Licensing of Premises classed as Sex Establishments is agreed for consultation purposes.

12 UPDATE ON THE CONSULTATION FOR THE LICENSING ACT 2003 POLICY

Members discussed the amended policy and made a few more minor adjustments. They also noted the contents of document prepared by a sub-committee during the summer detailing a Licensing Vision for Hart and agreed that this document should be incorporated into the new policy before it is sent out for consultation.

It was **RESOLVED** that

The amended Statement of Licensing Policy under the Licensing Act 2003 for the years 2011 to 2013 is agreed for the purposes of consultation.

The meeting closed at 7.57pm