

STATEMENT OF LICENSING POLICY

Made under section 5 of the Licensing Act 2003

**This policy shall come into force on 5th February 2011 and be reviewed
not later than 5th February 2014**

Epping Forest District Council

Contents

	Page
1. Introduction	
• Purpose and Scope	3
• Licensing Objectives	3
• Consultation, Strategies and Policies	4
• Regulated Entertainment	5
• Applications	5
• Representations.....	6
• Conditions	6
• Administration, Exercise and Delegation of Functions	7
• Cumulative Impact of a Concentration of Licensed Premises.....	7
• Advice and Guidance.....	8
• Reviews	8
• Enforcement	9
2. Licensing Objectives.....	9
3. Prevention of Crime and Disorder	10
4. Public Safety.....	10
5. Public Nuisance	10
6. Protection of Children from Harm.....	10
7. Licensing Hours	11
Contact Details.....	12
Appendix 1 Delegation of Functions.....	13
Appendix 2 Consultation	14

1. Purpose and Scope

- 1.1 Epping Forest District Council ('the Council') is the licensing authority under the Licensing Act 2003 ('the Act'). This policy relates to all those licensing activities identified as falling within the provisions of the Act, including granting premises licences, club premises certificates, temporary events and personal licences in the district in respect of the sale and/or supply of alcohol and/or the provision of regulated entertainment and late night refreshment.
- 1.2 The Act requires that the Council publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act and to regulate licensable activities on, and in the vicinity of, licensed premises. This 'Statement of Licensing Policy' has been prepared in accordance with the Act.
- 1.3 This 'Statement of Licensing Policy' was been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act.
- 1.4 This Statement of licensing policy has been produced in consultation with the Chief Police Officer for Essex, the Fire Authority and bodies representing local holders of premises licences, club premises certificates and personal licences, businesses and residents of the area. The policy will be reviewed in not less than three years, or in the light of changes to legislation or circumstances, whichever is sooner.

Licensing Objectives

- 1.5 The Act requires that the Council carry out its various licensing functions so as to promote the following four licensing objectives:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance;
 - The protection of children from harm.
- 1.6 To achieve these objectives the Council will use the full range of measures available to it, including relevant legislation. The Council will work closely with the police, the fire authority, businesses, community representatives and local people in meeting these objectives.
- 1.7 There are a number of other Council and Government policies, strategies, responsibilities, and guidance documents that have been considered in the formulation of this licensing policy and which will be taken into account in its implementation.
- 1.8 Applicants must be able to demonstrate that they have considered the four licensing objectives within their operating schedule. Applicants know their premises best and will be expected to address all aspects relevant to the individual style of their premises. Consideration must be given to all of the licensing objectives. There are many control measures that are available to applicants to achieve this goal. Where appropriate applicants should consider whether or not any additional measure are required in respect of occasional or specific events that it is intended or are likely to attract large audiences.

Consultation, Strategies and Policies

1.9 In developing this Policy Statement, the Council consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Essex County Fire and Rescue Service), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

Details of the consultation on this policy is attached as Appendix 2.

1.10 The Council will take account of the guidance and strategies listed or any replacement guidance or strategy when preparing its policies and in its decision making.

- Environmental Health Enforcement Policy
- Enforcement Concordat
- The Council Plan – Homes and Neighbourhoods, a Safe Community and Economic Prosperity

Other Responsibilities

- Responsibilities under Anti Social Behaviour Act 2003
- Race Relations Act 1976
- Equalities Act 2010

Guidance Documents

- Home Office Safer Clubbing Guide
- LACORS/TSI Code of Practice on Test Purchasing
- Any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols

Any documentation relating specifically to temporary events such as:

- The Event Safety Guide: A Guide to Health, Safety and Welfare at Music and Similar Events (HSE 1999) (“the Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely’ (HSE 2000) ISBN 07176 1834 X
- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0716 150804
- The Guide to Safety at Sports Grounds (The Stationary Office 1997)
- Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Outdoor Performances Independent Street Arts Network copies of which may be obtained through www.streetartsnetwork.org.uk/pages/publications.htm

1.11 The Council will have regard to, and consult with those involved with, local crime prevention, planning, transport, tourism, race equality and cultural strategies. Review or amendment to these strategies will be considered for their impact on this statement of licensing policy.

- 1.12 Furthermore, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.13 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Development Control Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the Development Control Committee to have regard to such matters when making its decisions.
- 1.14 The Council recognises its responsibilities under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. The impact of this policy on race relations will be monitored through the Council's race equality scheme.

Regulated Entertainment

- 1.15 As part of implementing local cultural strategies, proper account/consultation will be taken of the need to encourage and promote in suitable locations, a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of communities.
- 1.16 If representations are made concerning the potential for disturbance in a particular neighbourhood, the Council's consideration where disturbance is likely to be of limited extent, will be balanced against the wider benefits to the community. 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.

Applications

- 1.17 In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits, taking into account:
- the Licensing Act 2003 and the four licensing objectives,
 - Government Guidance issued under Section 182 of the Licensing Act 2003,
 - Supporting regulations
 - This statement of Licensing Policy, and
 - the nature and locality of the premises and the Operating Plan submitted by the applicant.
- 1.18 The Council requires the applicants to satisfactorily address the licensing objectives, from the design of the premises through to the daily operation of the business, in their Operating Plans, which must be submitted with their application.
- 1.19 Nothing in this Statement of Policy will:
- Undermine the rights of any person to apply under the Act for a variation of permissions and have the application considered on its individual merits;
 - 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 Act;

- Prevent any person from applying for a variety of permissions under the Act.
- 1.20 So far as possible, this policy will not duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health & Safety at Work etc Act 1974, The Environmental Protection Act 1990, disability discrimination legislation, and the Fire Safety Regulatory Reform Order 2005. Conditions in respect of public safety will only be attached to licences if they are necessary for the promotion of a licensing objective.
- 1.21 When one part of the Council seeks a premises licence from the Licensing Committee, the application will be considered 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.
- 1.22 In all cases, the applicants and those making representations have a right to appeal to the magistrates' court against any decision made by the Council.

Representations

- 1.23 The Chief Officer of Police, the Fire Authority, the Enforcing Authority for health and safety purposes, the local planning authority, the authority responsible for minimising or preventing the risk of pollution and the Child Protection Authority 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. Representations must be evidentially based.
- 1.24 Local residents and businesses, in the vicinity of the premises subject to the application, or their representatives are known as 'interested parties' and are free to raise relevant representations. A Councillor for the District may also make representations. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. Any representation must not be frivolous or vexatious, and in addition, in the case of reviews, not be repetitious. Interested Parties are directed to the guidance issued by the Department for Culture, Media and Sport (or similar government issued guidance) for assistance as to whether a representation is relevant.
- 1.25 In the absence of any representations the licence must be granted and any representations must be heard at a hearing of the Licensing Sub-committee.

Conditions

- 1.26 Licence conditions will be tailored to the individual application and only those necessary to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other controls/legislation exist to provide sufficient protection to the public. There are pools of conditions set out in the Guidance issued under Section 182 of the Licensing Act 2003 which an applicant for a licence may wish to draw on as appropriate. The Council may also create its own pool of conditions to assist applicants in this way.
- 1.27 Any conditions arising from the operating schedule or as a result of representations will be focused on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned and which are within the control of the individual licensees and others with relevant authorizations.

Administration, Exercise and Delegation of Functions

- 1.28 The powers of the Council under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.
- 1.29 With the exception of the approval and review of its Licensing 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 we will approach this is attached at Appendix 1.
- 1.30 The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.
- 1.31 The Licensing Committee will expect individual applicants to address the licensing objectives in their Operating Plan, having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 1.32 The Council recognises the advice of the Department of Culture Media and Sport that the views of vocal minorities should not be allowed to predominate over the general interests of the community. The Council will revisit this policy if there is any indication that regulated entertainment is being deterred by its provisions.

Cumulative Impact of a Concentration of Licensed Premises

- 1.33 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 1.34 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Council can take into account. This will not be confused with 'need', which relates more to the commercial demand for a particular type of premises, and is therefore a matter for planning consideration and does not form part of this licensing policy statement.
- 1.35 The Council may receive representations from either a Responsible Authority or an interested party, (both defined by the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases, the issue of cumulative impact may be taken into account when considering the individual merits of any application.
- 1.36 The Council will not operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.
- 1.37 In determining whether to adopt a 'saturation' policy for a particular area the Council may, amongst other things –
- Gather evidence of serious and chronic concern from a responsible authority or interested parties about nuisance and disorder;

- Identify the area from which problems are arising and the boundaries of that area;
- Make an assessment of the causes;
- Adopt a policy about future applications for premises within that area.

1.38 The Council recognises however, that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. The Council recognise that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder.

Advice and Guidance

1.39 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Council, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.

1.40 The Council will 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 department/section and those from who 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.

Reviews

1.41 A Responsible Authority and/or interested parties can trigger a review of a premises licence or club premises certificate but an evidentiary basis would be required to be presented to the Licensing Authority. Representations received must be relevant to the promotion of the licensing objectives and submitted in writing. Representations must not be frivolous or vexatious.

1.42 The Act provides a mechanism for reviewing Premises Licences where problems associated with achieving the Licensing Objectives occur. However, no more than one review from an interested party will normally be permitted within any 12 month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a Closure Order.

1.43 In addition where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of the premises licence which may result in :-

- (a) the modification of the conditions of the premises licence;
- (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) the removal of the designated premises supervisor from the licence;
- (d) the suspension of the licence.

The initial decision may be determined in the absence of the premises licence holder. A review hearing must then take place within 28 days.

- 1.44 Where an Interested Party applies for a review, the Licensing Authority has to be satisfied that the person making it qualifies as an Interested Party and that it is relevant. There is no appeal to the decision of the Authority other than by way of judicial review.
- 1.45 As the Licensing Authority can generally only determine whether a person is an Interested Party by reference to the name and address of the person making the application, this Authority will not consider any application that fails to provide those details.
- 1.46 The Licensing Authority accepts that in exceptional circumstances, an Interested Party may not wish to provide his/her personal details to the licence or certificate holder. In those circumstances an Interested Party might consider providing the relevant Responsible Authority with details of how they consider the licensing objectives are being undermined so that the Responsible Authority can apply for a review.
- 1.47 Where possible and appropriate the Council, Essex Police and/or Essex Fire Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.48 No more than one review from interested parties will be normally 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 Council has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to the principles of good inspection and enforcement practice and recognises the Hampton principles by carrying out its regulatory functions in a fair, open and consistent manner.
- 1.50 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives, and compliance with the specific conditions of their licence and their Operating Plan. The Council will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 1.51 The Council 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.

2. Licensing Objectives

- 2.1 The following sections set out the Council's Policy relate to the four licensing objectives:
 - the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.

3. Prevention of Crime and Disorder

3.1 When considering Crime and Disorder applicants should look to include in their Operating Plan measures to control problems associated with this as required:

- Effective training and supervision of staff;
- Adoption of best practice guidance (e.g. Safer Clubbing, The National Alcohol Harm Reduction Strategy Toolkit, Pub watch schemes, CCTV, Drug Awareness)

4. Public Safety

When considering Public Safety the applicant should consider whether it is necessary to address the following in their Operating Plan:

- Suitable and sufficient risk assessments;
- Effective and responsible management of premises;
- Adoption of best practice guidance (e.g. Guide to Fire Precautions in licensed premises).

5. Public Nuisance

When considering prevention of public nuisance applicants should consider what measures may be necessary and should take account of the following:

- Adoption of Best Practice Guidance (e.g. Good Practice Guide on the Control of Property, Noise, published by BBPA);
- Ensuring customers leave quietly;
- Installation of sound proofing.

6. Protection of Children from Harm

6.1 The Council recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so in order to protect them from harm.

6.2 When deciding whether to limit access to children or not the Council will judge each application on its own individual merits. Examples that may give rise to concern in respect of children would include premises where:

- entertainment of an adult or sexual nature is provided;
- there is a strong element of gambling taking place;
- there is a known association with drug taking or dealing;
- there have been convictions for serving alcohol to those under 18;
- there is a reputation for underage drinking.

- 6.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Council itself.
- 6.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure the children's safety and their protection from harm.
- 6.5 The options available for limiting access by children could include –
- A limit on the hours when children may be present;
 - A limitation or exclusion when certain activities may take place;
 - The requirement to be accompanied by an adult;
 - Limiting access to parts of the premises;
 - An age limitation.
- 6.6 The Council will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club. In all cases, it is expected that the applicant will have considered the protection of children in their Operating Plan. The Council commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and would expect applicants to consider the Code in their Operating Plan.
- 6.7 In the case of premises giving film exhibitions the Council would expect licensees or clubs to include in their operating schedules arrangements for restricting children from age-restricted films as classified according to the recommendations of the British Board of Film Classification.
- 6.8 The competent responsible authority in relation to the protection of children from harm is the Essex County Council's Children's Safeguarding Service.

7. Licensing Hours

The Council recognises that longer licensing hours may be in the interests of the community by avoiding concentrations of disturbance from customers leaving premises whilst ensuring that nuisance is minimised to local residents. Premises will generally be able to sell alcohol during the hours they are permitted to open. Entertainment providers may provide a range of entertainment during their operating hours. When issuing a licence, however, stricter conditions are likely to be imposed with regard to noise control in the case of premises situated in largely residential areas.

Contact Details

Further information concerning all aspects of licensing can be obtained from our website:

www.eppingforestdc.gov.uk

or

The Licensing Team
Corporate Support Services
Epping Forest DC
Civic Offices
High St
Epping
Essex CM16 4BZ

Tel: 01992 564034

Fax: 01992 561016

Email: licensing@eppingforestdc.gov.uk

General Enquiry Line: 01992 564000

Delegation of Functions

Appendix 1

Matter to be dealt with	Full Committee	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 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	
All policy matters except the formulation of the statement of licensing policy	All cases		

Consultation

Consultation will be undertaken with those listed below. The majority of those being contacted via e-mail and the rest by post. A copy of the draft policy will be available on the EFDC website. All comments received will be considered and the results of the consultation published on the EFDC website. The consultation period will be three months.

Arriva Bus Company Arts Council England Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors Bill Rammell MP British Transport Police Butler & Mitchells Brewers Roman Catholic Church Church of England Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Forest PCT Epping Magistrates Equity Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire & Rescue Essex Police Essex Probation Service Essex Tourist Bodies Federation Synagogue Foskett Marr Gadsby and Head	General Municipal and Boilermakers Union Hammonds Solicitors Health and Safety Executive Essex Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Limes Farm Synagogue Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Local Taxi Operators LUL Transport for London McMullens Brewery Musicians Union Parish and Town Councils Police and Community Consultative Group Princess Alexandra NHS Trust Ridleys Breweries Rural Community Council of Essex Scottish and Newcastle Retail Somerfield Supermarkets Spirit Group Brewery Transport and General Workers Union Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers' Association Whiskers and Co Solicitors Whipps Cross NHS Trust All current holders of liquor, public entertainment, private places of entertainment, cinemas, theatre and late night refreshment houses licences within the district.
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