

8. AMENDMENT TO LICENSING POLICY

REPORT OF: Tom Clark, Head of Regulatory Services.
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Wards Affected: ALL
Key Decision: No
Report to: Council
25th July 2018

Purpose of Report

1. To seek Council's adoption for amendments to the Alcohol Licensing Policy regarding powers for Licensing Authorities to suspend or revoke Personal Alcohol Licences.

Recommendations

The Council is recommended to adopt amendments to the Licensing Policy attached in Appendix 1.

Background

2. The Licensing Act 2003 requires premises that are licensed to sell alcohol to nominate a Designated Premises Supervisor (DPS). This person is responsible for authorising all sales of alcohol at the site. There is no requirement for them to be at the site during all opening times. Due diligence and good governance will cover this responsibility by staff training.
3. In order to qualify as a DPS a Personal Alcohol Licence must be obtained from the local authority where they reside. Proof of training by an accredited provider must be supplied, together with an up to date Criminal Records check. The Council is then obliged to issue a Personal Alcohol licence which has no expiry date.
4. Until recently only a Magistrates or Crown Court could revoke the licence after conviction. The Licensing Act 2003 has now been amended by Section 138 Policing and Crime Act 2017. It inserts Section 132A that gives power to a Licensing Authority to suspend and revoke Personal Alcohol Licences. The triggers for these actions are ;
 - (a) A conviction for a relevant offence (as defined in Schedule 2 to the Act or a foreign offence.
 - (b) A requirement to pay an immigration penalty.
5. Our Licensing Policy must be updated to take account of this change in two areas;
 - a) The first should be who decides what matters are submitted to Committee for a determination. The fact a conviction has come to light or a civil penalty is incurred doesn't automatically mean the matter has to proceed for suspension or revocation. This is an officer decision taken on its merits. It is proposed that this decision is taken in accordance with other enforcement matters, by following the Environmental Health and Building Control's Enforcement Policy.

- b) The table of delegation at Section 14 of the Policy should be updated to take account of the final determination process. The Licensing Committee must finally determine such cases.

6. It is proposed that the Licensing Policy is amended as follows ;

- a) ADD at Section 12 after paragraph 12.6

Personal Licence – Suspension or Revocation

12.7 Section 132A Licensing Act 2003 gives the Licensing Authority power to suspend or revoke Personal Alcohol Licences.

A decision to ask the Licensing Committee to determine such a matter will be undertaken in accordance with the Environmental Health Enforcement Policy.

- b) ADD at Section 14 paragraph 14.13

Table of Delegation of Licensing Functions

- In the first column headed 'Matters to be dealt with' Insert new section – 'Decision to suspend or revoke a personal licence'
- In the third column headed Sub Committee Insert "All cases".

7. This matter has been considered and endorsed by the Scrutiny Committee for Community, Housing and Planning on the 27th June 2018. It is a legislative change that needs to be reflected in the Council's Licensing Policy.

Policy Context

8. The Licensing Act 2003 requires Licensing Authorities to produce a Statement of Licensing Policy. It guides operators and applicants and assists Licensing Committees when determining applications and other matters. It should be regularly reviewed and updated to take account of legislative changes.

Financial Implications

9. None

Risk Management Implications

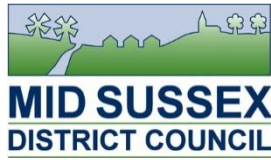
10. The Council is required to review its Statement every five years or sooner if appropriate. Our policy is due for renewal 1 January 2019. Failure of a Council to review or update their Policy could leave it open to a legal challenge.

Background Papers

11. Current Mid Sussex District Council Licensing Policy
<https://www.midsussex.gov.uk/media/1915/mid-sussex-licensing-policy.pdf>

Environmental Health and Building Control's Enforcement Policy

<https://www.midsussex.gov.uk/media/2188/eh-building-control-enforcement-policy.pdf>



MID SUSSEX DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY

LICENSING ACT 2003

COMMENCES 5TH JANUARY 2015

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1 Introduction

1.1 This document is the policy for the Licensing Act 2003 for Mid Sussex District Council. The policy will take effect on 5th January 2015.

1.2 Mid Sussex District Council's (the Council) statement of main purpose is: -

'Working together for a Better Mid Sussex'

1.3 Mid Sussex District Council is located within the County of West Sussex. More than half the area is designated as an Area of Outstanding Natural Beauty. It lies on the eastern edge of the county and shares boundaries with East Sussex to the east, Surrey to the north and Brighton and Hove and the South Downs National Park to the south.

1.4 Mid Sussex covers an area of 128 square miles and includes the three main towns of East Grinstead, Burgess Hill and Haywards Heath. There are some 25 villages and many small hamlets in a predominantly rural area outside of the main towns.

1.5 The District has a population of approximately 139,000. Sixty percent of the population live in the three main towns with the remaining 40% living in the smaller villages and rural areas.

2 Purpose and Scope of the Licensing Policy

2.1 This policy is published in accordance with the provisions of Section 5 of the Licensing Act 2003 and the Guidance issued under Section 182 of the Act and will be reviewed and republished, following consultation, at least every five years. It was last updated in January 2010. During each five year period the Policy will be kept under review and such revisions will be made as considered appropriate to ensure the statutory objectives of the Act are being met against any changes to the licensing legislation or amendments to the section 182 statutory guidance. Attached to the policy, but not forming part of it, are 'Supplementary Guidance Documents'. These documents are provided to assist licence applicants and may be amended at any time without revision of the Licensing Policy.

2.2 The policy has been produced having due regard to the guidance on the Act issued by the Home Office. Whilst the Council will have full regard for both the Guidance and its own Statement of Licensing Policy, in determining individual licensing applications, it may depart from either if reason exists for doing so. Written statements of Licensing Panel decisions will be supplied to all parties to hearings.

2.3 The Licensing Act 2003 defines the following objectives that must be promoted by the Council as Licensing Authority and by licensees under the Act: -

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

2.4 These objectives will be achieved by regulation of the following activities, where the principal aim is to provide entertainment in the presence of an audience or alcohol is sold for consumption either on or off the premises: -

- Retail sale of alcohol.
- Supply of alcohol to club members.
- Provision of regulated entertainment to the public, club members or with a view to making a profit.
- The performance of a play.
- Exhibition of a film.
- All indoor sporting events.
- Boxing and wrestling.
- A performance of live music.
- Any playing of recorded music.
- A performance of dance.
- Entertainment similar to the performance of live music, recorded music or dance.

The following activities will also be regulated irrespective of audience participation: -

- The supply of hot food & / or drink from any premises, except where exempted, (including stationary vehicles) between 11p.m. and 5 a.m.

As a result of deregulatory changes that have amended the Licensing Act 2003, no licence is required for some entertainment activities. Details can be found in the Home Office document; Revised Guidance issued under Section 182 Licensing Act 2003. This can be found on the Home Office web site at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

2.6 Licensing decisions taken by the Council (The Licensing Authority) will be focused on matters within the control or influence of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Therefore we will focus on the 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.

2.7 In making its decisions we will take into account the fact 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 control or influence of the individual club or business holding the licence, certificate or permission concerned. Each licence application will be considered on its merits in the context of the four Licensing Objectives.

2.8 There is no provision for us to impose conditions on a licence otherwise than in accordance with those proposed within an application, or when relevant representations are received from Responsible Authorities and Interested Parties.

2.9 Applicants for all licensed premises should read this policy and base their applications on the principles contained therein.

3 Duplication

- 3.1 The Licensing Authority will avoid placing conditions on licences which involves duplication of regulations imposed by other regulatory authorities such as the Fire Authority and Health and Safety Agencies or where primary legislation exists. Conditions will only be placed upon licences in order to promote the Licensing Objectives if relevant representations are made or in accordance with the applicants operating schedule.

4 Cultural Strategies

- 4.1 The Licensing Authority will support the aims of the Council's Leisure and Culture Strategy 2009-20 by providing information, advice and support to community premises about regulated entertainment and the general organisation of events.

5 Live Music, Dancing and Theatre

- 5.1 The Authority recognises, in line with our Leisure and Cultural Strategy, the need to encourage and promote live music, dancing and theatre for the wider cultural benefit.
- 5.2 Only conditions that are necessary for the promotion of the Licensing Objectives will be attached to licences for activities of this nature. The Authority is aware of the need to avoid unnecessary or disproportionate measures that could deter live music, dancing and theatre by imposing indirect costs of a substantial nature.
- 5.3 There is a need to balance the support for live music and entertainment in licensed premises with the real concerns of local residents who may be affected by noise breakout from premises and subsequent increase in footfall to the venue.
- 5.4 The Live Music Bill 2012 deregulated the playing of amplified live music in alcohol licensed premises and workplaces between 0800-2300 hours before an audience of less than 200 people. For premises not licensed for alcohol, the deregulation extends only to unamplified music during the same times and before the same audience number.
- 5.5 Notwithstanding the deregulation, licensed premises that become the subject of review proceedings as a result of live music complaints can have conditions imposed upon them as if they were so licensed.
- 5.6 We strongly advise organisers of this type of entertainment to contact the Environmental Protection and Licensing Teams to discuss options and methods for mitigating noise disturbance.
- 5.7 The Council holds a number of Premises Licences for parks and open spaces. The Licensing Authority will continue to give advice about future events and the licensing of other publicly owned open spaces.

6 Planning

- 6.1 Planning and Licensing processes are different and run separately from each other. It should be noted that the Planning Authority are a Statutory Consultee for applications and variations of current licences. They are entitled to make representations and seek reviews in their own right.

- 6.2 It is possible for licensing activities to be granted timings that conflict with planning permissions for premises. This does not imply that the grant of Licensing Act 2003 permission overrides any Planning Authority restriction. Mid Sussex District Council expects proprietors to comply with all legislation relevant to their premises.

7 Temporary Event Notices

- 7.1 A Temporary Event Notice (TENs) is a simple way to stage regulated entertainment and sell alcohol at events such as fund raising and celebratory functions in otherwise unlicensed functions. It is a temporary licence. Applicants should note that they are bound to observe the Licensing Objectives.

There are two ways of notifying the Licensing Authority.

- a) Two copies of the notice plus the fee must be served on the Licensing Authority and one copy at the same time on Sussex Police.
- b) Using an online form and card payment at www.midsussex.gov.uk. Notifications submitted this way do NOT require the applicant to inform police. The Licensing Authority will do this.

- 7.2 Minimum Notice - In accordance with the Licensing Act 2003, the minimum notice that may be given to the Licensing Authority of the intention to stage any event under the Temporary Event Notice provisions is 10 working days. This is called a Standard Notice TENs. There is provision for two 'late' TENS per premises per annum to be accepted by the Authority. A 'late' TENS is one that is served on the licensing authority between 5-9 working days. These periods do not include the day of the event or the day of notification. The Licensing Authority has no discretion on either time scale and will not consider notices sent in breach of them.

- 7.3 To facilitate necessary consultation and liaison, wherever possible, a period of at least 28 days notice should be given in respect of all applications to the Licensing Authority and to the Police. The 28 day period is an expectation and is not stipulated in the legislation.

- 7.4 Maximum notice – Similarly applications should not be made in excess of twelve calendar months prior to the event, (in order that appropriate consideration may be given to circumstances likely to prevail at the time of the event).

- 7.5 Multiple applications may be made at any one time, subject to the foregoing constraints.

- 7.6 All TENs notifications are considered by Sussex Police and Mid Sussex District Council Environmental Protection Team who can object to the notice if they consider the TENs would undermine any of the licensing objectives.

- 7.7 Standard Notice TENs notifications where there is a Premises Licence in existence may, at the request of Police or Environmental Protection Team, have relevant conditions from their Premises Licence attached to the TENs. An objection to 'late' TENs will result in it not being acknowledged and the event cannot therefore be licensed.

- 7.8 The address for service to Sussex Police of Temporary Event Notices is:

Sussex Police
Northdowns Licensing Team
Horsham Police Station
Hurst Road
Horsham
West Sussex
RH12 2DJ

8 Cumulative Impact and Special Policies

- 8.1 Where the Licensing Authority considers that an area has become saturated with a certain type of licensed premises it may adopt a “Cumulative Impact Policy” for a particular area and thus refuse new licences in that area. However, all new licence applications will be considered on their individual merit and additional licences may be approved if it is considered that such an application is unlikely to add significantly to such saturation.
- 8.2 In determining whether to adopt a ‘Cumulative Impact Policy’ for an area the Licensing Authority will undertake to: -
- Identify concern about crime and disorder or public nuisance (within an area).
 - Consider whether there is good evidence that crime and disorder are happening and are caused by the customers of licensed premises or that the risk of cumulative impact is imminent.
 - Identify the boundaries of the area where problems are occurring.
 - Consult those specified in Section 5(3) of the Licensing Act 2003 and subject of the outcome of such consultation – Include and publish details of the Cumulative Impact Policy within the Licensing Policy Statement.
- 8.3 There are currently no Cumulative Impact Areas within the Mid Sussex District Council area.
- 8.4 The Late Night Levy and Early Morning Restriction Orders

The Council do not intend to introduce The Late Night Levy or Early Morning Restriction Orders at this time. The authority retains the right to review these decisions at a later date if it considers it to be necessary. Should the authority consider it necessary to revisit either, they will be subject to a consultation process in accordance with Government guidelines.

9 Licensing Hours

- 9.1 All applications will be considered on their individual merits. It is recognised that flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. The Authority needs to create a balance between the aspirations of the businesses and the concerns of the local community.
- 9.2 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises throughout the period they are open for general trading, unless there are good reasons, based on the licensing objectives, for restricting those hours. We do not anticipate granting permission to sell alcohol to such establishments outside the hours of 0600hrs to 2300hrs save in exceptional circumstances.

- 9.3 We recognise that businesses may wish to open later and diversify the range of entertainment they offer. The Authority and other Responsible bodies will consider applications for late night regulated entertainment on their merits, but will seek safeguards through licence conditions to ensure the licensing objectives are upheld.
- 9.4 The town centre areas in Haywards Heath, East Grinstead and Burgess Hill have thriving night time economies. Problems in the town centres consist of noise breakout (music) from bars, particularly when patrons are entering and exiting, and noise disturbance generally from patrons on garden and outside patio areas. This is particularly so when the background ambient noise levels have dropped during the late evening.
- 9.5 Future applicants for licensable activities beyond 23:00 hours will be expected to specifically demonstrate how they intend to address the licensing objectives of Crime and Disorder and Public Nuisance.
- 9.6 The Licensing Authority is not prepared to grant permission for outside patio/garden areas to be used by the public beyond 2300 hours throughout the district other than in exceptional circumstances. We do not consider a record of good management or financial considerations to constitute exceptional circumstances.
- 9.7 The Licensing Authority believes that this measure is necessary to address the licensing objective of Public Nuisance.

10 Children and Young Persons

Children - as defined by Licensing Act 2003 – means individuals under 16 years of age and also introduces additional restrictions on those under 18 years of age. (See also Guidance to the Act).

- 10.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools.
- 10.2 To prevent illegal purchases of alcohol by under age persons, there is a Mandatory Condition requiring a 'proof of age' scheme for their premises.
- 10.3 This condition requires appropriate identification to be produced before a sale of alcohol can take place. 'Appropriate identification' is identification bearing a photograph of the holder, date of birth and a holographic mark. The most common forms fulfilling these criteria are a passport, photo card driving licence or PASS card.
- 10.4 The Proof of Age Standards Scheme (PASS) is the UK's national proof of age accreditation scheme, endorsed by the Home Office, the Association of Chief Police Officers (ACPO), the Security Industry Authority (SIA) and the Trading Standards Institute (TSI).
- 10.5 PASS sets and maintains minimum criteria for proof of age card issuers to meet. All cards schemes are required to submit to periodic audits carried out by an independent audit team appointed by the Trading Standards Institute (TSI) to ensure that they meet and keep the standards required for PASS accreditation.

The aim of PASS is to provide:

- Reliability
- Assurance
- Confidence for retailers, enforcers and young people.

The PASS hologram on a card is the hallmark indicating that the card issuer has passed a stringent audit carried out by Trading Standards Officers and that the card may be relied upon.

- 10.6 Mid Sussex District Council recommends that licensees familiarise themselves and their staff with PASS and use it to verify identity in their premises.

11 Licensing Conditions

- 11.1 When attaching conditions to licences and certificates issued under the Act, the Council will have due regard to the fact that conditions are tailored to the individual style and characteristics of the venue and event for which a licence is sought.
- 11.2 The Authority cannot impose blanket standard conditions.
- 11.3 When attaching conditions the Licensing Authority will also be aware of the need to avoid measures which might unreasonably impose indirect costs of a substantial nature.
- 11.4 To assist licensees, we have published guidance as to how noise may be controlled in places of public entertainment and other venues. The guidance is available from the Council's Licensing Team on request and on the Council's website. It is also attached as Supplementary Guidance Document 7 to this Policy. Applicants are expected to address this guidance in their Operating Schedule when applying for Regulated entertainment.
- 11.5 The Authority will follow The Home Office Licensing Act Guidance, Chapter 10 to select appropriate conditions to suit each operation.
- 11.6 Mandatory Conditions
There are a number of mandatory conditions that apply to all premises licences and club premises certificates. Full details can be found using the link at Document 4 in the Supplementary Guidance at the end of this Policy.
- 11.7 Community Premises
Section 19 Licensing Act 2003 requires all premises licensed for the sale of alcohol to have a Designated Premises Supervisor (DPS) nominated and named on the licence. All sales of alcohol must be authorised by a personal licence holder.
- 11.8 Section 41D Licensing Act 2003 allows Community Premises to apply to have this standard mandatory condition removed from their premises licence. This will allow Community premises to operate without a DPS and for sales of alcohol to be made or authorised by the management committee.

Further information about the definition of Community Premises can be found in the Guidance to the Act at Section 4.37 et seq.
- 11.9 The Authority cannot impose blanket conditions upon Community Premises at apply to dis apply the Mandatory Condition. All applications to this Licensing

Authority to dis apply the mandatory condition (Section 19) must address the following matters;

- a. How the premises is managed
- b. Committee Structure
- c. Arrangements for the supervision of alcohol sales
- d. How is responsibility determined and reviewed within the Committee procedure in the event of any issues arising.
- e. Applicants should consider their hiring agreements in order to satisfy themselves that the hirer is aware of their responsibilities under the Licensing Act 2003.
- f. The Applicant will be expected to show that the hirer will be spoken to by representatives of the Committee and minutes of the meeting recorded.
- g. Hirer agreements will be expected to show signatures of the hirers to demonstrate their awareness of their responsibilities and their attendance throughout the event in question.

It is suggested that Community Premises considering this course of action should consult with the Licensing Team for advice and guidance before making an application.

11.10 Adult entertainment

Sex Entertainment Venues.

The Council has adopted the Local Government Miscellaneous Provisions Act 1984 Schedule 3 (as amended by Section 27 Crime and Police Bill 2009) which regulates the licensing of Sexual Entertainment Venues.

New or current licensees wishing to have such entertainment in their premises should refer to the Mid Sussex District Council Statement of Principles for the Licensing of Sex Entertainment Venues.

Applications for new Premises Licences will be expected to indicate in the Operating Schedule whether they intend to have adult entertainment. If they do not indicate as such a condition will be placed on the licence preventing it from taking place.

Those who do intend to provide Adult Entertainment on the limited basis of exemptions available must demonstrate in the operating schedule how they intend to address the licensing objectives when this entertainment is taking place. The Council will seek to ensure that conditions are placed on the licence specifically addressing these events.

12 Licence Reviews

12.1 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority or any other person may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

12.2 The Licensing Authority, as a Responsible Authority can initiate their own reviews of Premises Licences and Club Premises Certificates. It does not, however, expect to call for a review on behalf of other Responsible Authorities, all of whom have

sufficient legislative power to ask for a review of a licence in their own right. It expects them to engage with premises that are viewed as problematic and to seek a review in their own right. It does not regard the review process as a first resort to solve a problem. It does expect some intervention and discussion by an enforcement agency in an effort to resolve and prevent problems escalating. It is accepted that the circumstances leading to some reviews may make this course of action impracticable.

- 12.3 The Licensing Authorities role in review proceedings will be to administer the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.
- 12.4 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right.
- 12.5 In the event of the Licensing Authority considering asking for a review, the final decision whether to proceed will be made by a manager at the level of at least a Business Unit Leader.
- 12.6 At review proceedings the Licensing Authority has the following powers:
 - a. To modify the conditions of the licence which includes adding new conditions or altering existing ones.
 - b. To exclude a licensable activity from the scope of the licence e.g. exclude the performance of live music or recorded music.
 - c. To remove the designated premises supervisor
 - d. To suspend the licence for the period not exceeding three months.
 - e. To revoke the licence.

13 Enforcement

- 13.1 Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Council's Enforcement Policy for Environmental Health. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 13.2 To promote the statutory licensing objectives the Licensing Authority will share information with other enforcement agencies such as Police, Fire, Trading Standards, Customs and Excise and The Health and Safety Executive. Information will also be shared with internal departments within the Council, such as Environmental Health and Planning.
- 13.3 Inspection of Licensed Premises will be undertaken at the discretion of the Licensing Authority in a targeted and risk-assessed basis, or as necessary e.g. following a complaint.
- 13.4 Link to enforcement concordat can be found by following the link at document 4 in the Supplementary Guidance at the end of this Policy.
- 13.5 Suspension of Premises Licence and Club Premises Certificates

By Section 55a Licensing Act 2003, a Licensing Authority must suspend a premises licence if the holder of the licence has failed to pay the annual fee.

The Licensing Authority will invoice all premises that are due to pay an annual fee at least 21 days before the fee is due. In the event of the fee not being paid, the Licensing Authority will remind the holder about the overdue fee and will suspend the licence if the fee is not settled within 5 working days of the reminder letter.

13.6 Designated Premises Supervisor and Personal Licence Holders.

The Designed Premises Supervisor is responsible for all sales of alcohol and should therefore ensure that his /her staff are appropriately trained and or qualified. Whilst the Licensing Act 2003 does not require a Personal Licence Holder or Designed Premises Supervisor to be present at all times, the Licensing Authority will expect operating schedules to outline exactly how appropriate supervision and authority will be exercised in the absence of such persons. We do expect the DPS to have an active interest in the premises and to be involved in its day to day business.

14 Administration, Exercise and Delegations of Functions

- 14.1 If an application is not accompanied by the specified accompanying documents and fees, it will be the Council's policy to return it to the applicant as an incomplete application. Such applications will not be considered until all necessary support documentation is received. Fees received in respect of unsuccessful applications or in respect of applications withdrawn by the applicant will not generally be refunded.
- 14.2 When determining applications the Licensing Authority will have regard to any guidance issued by the Home Office, legislation, case law and this Policy.
- 14.3 The powers of the Council under the Act may be carried out by its Licensing Committee, a Sub-Committee, or by one or more properly authorised Officers acting in accordance with the Council's Constitution and Scheme of Delegation. A decision properly made by an Officer, in accordance with the Council's scheme of delegation, is a decision made by the Council.
- 14.4 The Council will ensure that Members and Officers having responsibility under the Licensing Act 2003 will receive appropriate training to administer and enforce the Act.
- 14.5 All Licensing records are computerised. The Council's website carries clear information about how to apply for Licences or Certificates under the Act.
- 14.6 In addition to this Policy Statement, the staff of the Environmental Health Section and in particular those of the Licensing Team, will provide clear information and guidance on all licensing matters, on request, to members of the public, applicants for licences, councillors and other interested parties.
- 14.7 It is considered that many licensing applications will not be contentious and in the interests of efficiency and effectiveness, will be determined under delegated authority by properly authorised Officers. Applications where there are relevant representations which cannot be mediated will be determined by the Licensing Committee or a sub-Committee, as will any applications for the review of a licence (as outlined previously).

- 14.8 Appeals in respect of a decision made by a Licensing Committee or Sub Committee about an application to grant or vary a licence will be heard by the Magistrates Court.

14.9 Personal Alcohol Licences

In addition to the statutory application requirements for Personal Alcohol Licences (see appendix 3), applicants will provide two photographs with their application. One must be suitably endorsed regarding identity. The endorser is additionally required to complete a photograph endorsement form.

14.10 Application for a Minor Variation to a premises licence/club premises certificate

The minor variation procedure provides a straightforward method by which conditions to a premises licence or club premises certificate may be added, amended or removed. Unlike a full variation it does not require a newspaper advert and the consultation period is shorter, at 10 working days.

- 14.11 The licensing authority, when determining the application, is able to consult any of the responsible authorities as it considers appropriate and take into account relevant representations from those responsible authorities and other persons. Its decision will be based upon whether the application could have an adverse effect on the licensing objectives.

- 14.12 We will always consult Sussex Police. Consultation with other bodies will depend upon the nature of the application.

- 14.12 This system cannot be used to increase the hours for sale of alcohol or to prolong a licence. Applicants should seek advice from the Licensing Team before submitting a Minor Variation

14.13 Licensing Committee

The Licensing Committee or a Sub Committee (known as a Liquor Licensing Panel) will determine matters in accordance with the table on page 12 of this policy. We will not appoint Councillors to determine applications for premises within their own constituency wards. This is subject to exceptional circumstances which may result in unforeseen changes to a panel.

Table of Delegation of Licensing Functions

Matters to be dealt with	Full Licensing Committee	Sub-Committee	Officers
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no 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
Application 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 or Environmental Health objection to a temporary event notice		All cases	
Application made under Minor Variation Order			All cases

15 Contact Details / Advice and Guidance

- 15.1 All application forms , including guidance for advertising for the Licensing Act 2003 are available to download from the Mid Sussex DC Web site:
www.midsussex.gov.uk -(Click on Environment and Planning - Licensing)

15.2 Applications

Applications can be made in two ways

- Electronically via the Mid Sussex District Council Web site.
Note: Applications Submitted electronically should be submitted only to the Licensing Authority.
- Submitting a paper copy to the Licensing Authority and the Responsible Authorities (details below)

15.3 Contact details:

Licensing Team
Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

Telephone: 01444 477419

E Mail: licensing@midsussex.gov.uk

16 Equal Opportunities

Promotion of Racial Equality and Elimination of other forms of Discrimination

- 16.1 The equalities Act 2010, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons based on race, gender, disability, age, sexuality (lesbian, gay, bisexual), transgender, pregnancy, religion or belief
- 16.2 The Council is committed to ensuring that it is delivering services in a non-discriminating way and that equality is at the heart of service provision throughout the Authority. The Council recognises that discrimination and exclusion can occur for many reasons including but not confined to race, language, age, gender, disability and poverty and is fully committed to overcoming such exclusion and discrimination.
- 16.3 In carrying out its duties the Council will have due regard for the need: -
- To eliminate unlawful discrimination
 - To promote equality of opportunity and good relations between people, including those in the groups protected by the Equality Act 2010 and listed in 17.1.

17 Review of this Policy

This licensing policy must be reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy must be subject to the consultation process again. In addition section 5(4) of the Act provides that we must keep the policy under review during each five-year period and make appropriate revision, particularly in respect of legislative changes.

The following organisations have been consulted during preparation of this policy: -

- The Chief Constable, Sussex Police.
- The Chief Officer of Police for the area.
- The West Sussex Fire and Rescue Service.
- Bodies representing premises licence holders ie The Licensed Victuallers Association and local Pubwatch.
- Bodies representing local holders of club premises certificates
- Bodies representing business and residents in the area (business organizations, Town Chambers of Trade and Commerce, all Parish and Town Councils, local Members of Parliament and Mid Sussex Councilors).
- Western Sussex Hospitals NHS Foundation Trust (for accident and emergency – Princess Royal Hospital Haywards Heath, and the Queen Victoria Hospital East Grinstead).
- British Transport Police.
- The Mid Sussex District Hackney Plate Holders Association and Private Hire Operators within Mid Sussex.
- West Sussex County Council.

To encourage other interested parties to comment upon the policy, it was highlighted within the Mid Sussex Council newsletter – Mid Sussex Matters, and on the Council's web site - www.midsussex.gov.uk. Press releases were also placed in the Mid Sussex Newspapers encouraging the general public to either access the draft policy on the Council's website or at Council Help Points. Copies of the Policy were also placed in Public Libraries.

MID SUSSEX DISTRICT COUNCIL

SUPPLEMENTARY GUIDANCE PACK

(To be read in conjunction with the Licensing Policy)

Appendix 1	Document 1: Glossary
Appendix 2	Document 2: Contact Details – Responsible Authorities
Appendix 3	Document 3: General Advice and Guidance
Appendix 4	Document 4: Internet Sources of Information
Appendix 5	Document 5: Advertising Applications
Appendix 6	Document 6: Prevention of crime and disorder and provision of public safety
Appendix 7	Document 7: Prevention of public nuisance
Appendix 8	Document 8: Protection of children from harm
Appendix 9	Document 9: Controlling noise from premises

Document 1

GLOSSARY

In this Policy the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms.

For a full definition of the terms used the reader must refer to the Licensing Act 2003.

The Act

The Licensing Act 2003

Appeals

Appeals against the decision of the Licensing Authority are to the Magistrates Courts for the area in which the licensed premises are situated. The appeal must be lodged within a period of 21 days of notification of the Licensing Authority's decision. On appeal a Magistrates Court may dismiss the appeal or substitute its own decision; remit the case to the Licensing Authority with directions; and make an order for costs.

Authorised Persons

Are specified people who have statutory duties in relation to the inspection of premises e.g. Licensing, Police, Fire, Health & Safety and Environmental Health Officers.

Closure Order

New powers are provided for the Police and the Magistrates Courts to close premises for up to 24 hours. The 2003 Act significantly extends the existing powers of the Police to obtain a Court Order for a geographical location that is experiencing or likely to experience disorder. In addition, the Police may close down instantly, individual licensed premises that are disorderly or likely to become disorderly, in the interest of public safety or to prevent a public nuisance owing to noise emanating from the premises.

Club Premises Certificates

A Club Premises Certificate is granted by the Licensing Authority in respect of premises occupied by a club and used for the purposes of a club. It certifies that the club may use the premises for at least one of the qualifying club activities specified in the Certificate and that the club is a qualifying club for that purpose. It is the equivalent of a Premises Licence, however where the supply of alcohol is a qualifying club activity, there is no requirement for a member of the Club or an employee to hold a Personal Licence and therefore no requirement to specify a Designated Premises Supervisor accordingly.

Conditions

A Premises Licence or Club Premises Certificate may be granted subject to a number of conditions, and these may be in respect of different parts of the premises and different licensable/qualifying club activities. There is no power to impose conditions on a Personal Licence. The Secretary of State Guidance provides that "the licence or certificate must be granted subject only to conditions as are consistent with the schedule accompanying the application and any mandatory conditions required by the Act itself".

Designated Premises Supervisor (DPS)

A person specified in a Premises Licence application as the proposed premises supervisor. A Designated Premises Supervisor must hold a Personal Licence.

- 20 -

Guidance

This refers to the statutory guidance issued to Licensing Authorities under Section 182 of the Licensing Act 2003 by the Department for Culture, Media and Sport (DCMS). The Guidance is provided for Licensing Authorities carrying out their functions, Magistrates hearing appeals against licensing decisions and for the benefit of operators of licensed premises, their legal advisors and the general public.

Late Night Refreshment

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 5.00am.

Licensable Activities

- The sale of alcohol by retail;
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

Licensing Authority

In the Act 'Licensing Authority' means, the Council of a district in England, in this case Mid Sussex District Council

Licensing Objectives

The objectives of licensing set out in the Act:

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

The Licensing Authority must carry out its functions under the Act, with the view to promoting the licensing objectives.

Mandatory Conditions

Conditions that the Act requires are imposed on a Premises Licence or Club Premises Certificate in certain situations

Minor Variation

Small variations that are considered not to impact adversely on the licensing objectives. The minor variation process can not be used in certain situations e.g. add the sale by retail/supply of alcohol to a licence/certificate, extend licensing hours for the sale or supply of alcohol at anytime between 23:00 and 07:00, increase the amount of time on any day during which alcohol may be sold or supplied.

Objection Notice

A procedure whereby the Police can lodge objections with the Licensing Authority on an application for the grant of a Personal Licence.

Operating Schedule

A document containing a statement of the following matters (and others that may be prescribed)

- Steps to be taken by the licence holder to promote the four licensing objectives;
- The licensable activities to be conducted on the premises;
- The times during which the licensable activities are to take place and any other times when premises are open to the public;
- Where the licence is required only for a limited period, that period; and
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor.

Personal Licence

A licence granted to an individual that authorises that person to undertake the sale by retail of alcohol or to authorise the sale by retail of alcohol in accordance with an appropriate Premises Licence. The licence is valid for 10 years and can be renewed, although ceases to have effect when revoked, forfeited, surrendered or suspended. A Personal Licence Holder is not required where alcohol is not permitted to be sold at the premises concerned. A Personal Licence Holder is also not required for the supply of alcohol in a club that holds a Club Premises Certificate. The Police can object to the granting of a Personal Licence, but only where the applicant has a relevant offence as defined by the Licensing Act 2003.

Premises

Premises means any place and includes a vehicle, vessel or moveable structure.

Premises Licence

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on death, insolvency etc. of the holder. Applications are dealt with by the Local Authority Licensing and

Enforcement Committee or Sub-Committee or Officers in the area where the premises are situated. There may be more than one Premises Licence for each premises.

Provisional Statement

A procedure by which a Licensing Authority can give an approval in respect of licensable activities intended to be carried on at a premises which are being or are about to be constructed.

Qualifying Club

Club Premises Certificates will be issued to qualifying clubs. Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in "good faith" (this involves consideration of details such as club finances),

Regulated Entertainment

This is divided into two types, 'entertainment' and 'entertainment facilities', both of which are explained below:

Entertainment:

- A performance of a play;
 - An exhibition of a film;
 - An indoor sporting event;
 - A boxing or wrestling entertainment;
 - A performance of live music;
 - Any playing of recorded music;
 - A performance of dance; and
 - Entertainment of a similar description to the performance of live music, playing of recorded music or a performance of dance.
- where the entertainment takes place in the presence of an audience and is provided for the purpose, or for the purposes which include the purpose, of entertaining that audience.

Entertainment Facilities

- Provision of facilities for making music;
- Provision of facilities for dancing; and
- Entertainment of a similar description to the provision of facilities for making music or dancing.

where the entertainment facilities enable persons to take part in entertainment for the purpose, or for purposes which include the purpose, of being entertained.

Relevant Representations

The Licensing Act 2003 does not use the term "objections". Instead Interested Parties and Responsible Authorities may be able to make relevant representations about an application for a Premises Licence or a Club Premises Certificate on the effect of the grant on the promotion of the licensing objectives. Where made by an Interested Party they must not be frivolous or vexatious.

The making of relevant representations engages the Licensing Authorities discretion to attach conditions as necessary to promote the licensing objectives, to exclude any of the licensable activities, to refuse to designate a DPS, or to refuse an application outright as it thinks fit to promote the licensing objectives.

Responsible Authorities

Include the Police, Fire, enforcing authority for health and safety, Planning Authority, Environmental Health, bodies responsible for child protection and other specified authorities.

Review of Licence/Certificate

Where a Premises Licence/Club Premises Certificate is in force, an Interested Party or Responsible Authority may apply, subject to Regulations, to the Licensing Authority for it to be Reviewed. The Licensing Authority must hold a hearing to review the licence/certificate and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the Designated

Premises Supervisor (only in the case of a Premises Licence), suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

Sale by Retail of Alcohol

Sale by retail means a sale of alcohol to any person but does not include a sale to a trader for the purposes of his trade, to a club holding a Club Premises Certificate for the purposes of the club, to a holder of a Personal Licence or Premises Licence for the purposes of making sales authorised by a Premises Licence, or to a premises user with a Temporary Event Notice for the purpose of making sales under that notice. Sales to members of the public in wholesale quantities are licensable and require a Premises Licence.

Temporary Event Notice

A Notice in a prescribed form must be served on the Licensing Authority by the individual who proposes carrying out the licensable activities and is referred to as the premises user. All sales of alcohol will be made by or under the authority of a premises user. Certain prescribed information must be supplied. The Police must consider the Notice, if they object a hearing must be arranged.

- Duration – they are limited to events lasting for up to 168 hours;
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to an overall aggregate of 21 days use; and
- The number of notices given by one individual within a given period of time – a Personal Licence Holder is limited to 50 notices in a calendar year, and any other person to 5 notices in a similar period. (If these conditions are not fulfilled, the temporary event would require a Premises Licence if it were currently unlicensed for the activity involved).

Transfer

A procedure where an application can be made to transfer a Premises Licence into a new name, e.g. if a Premises Licence Holder sells his premises an application may be made to transfer the Premises Licence to the new owner.

Appendix 2

Document 2

THE RESPONSIBLE AUTHORITIES

RESPONSIBLE AUTHORITY	ADDRESS	CONTACT DETAILS
1. The Licensing Authority – Business Unit Leader Environmental Health	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: licensing@midsussex.gov.uk
2. Chief Officer of Police – Sussex Police	F.A.O. Licensing Officer Police Station Hurst Road Horsham RH12 2DJ	Tel: 101 x North Downs Licensing Team – Horsham Email: ws_licensing_hor@sussex.pnn.police.uk
3. West Sussex Fire & Rescue Service	Northern (Fire Safety) Protection Office Fire Station Hurst Road Horsham RH12 2DN	Tel: 01403 213280 Email: Protection.NorthernTeam@westsussex.gov.uk
4. Team Leader – Food & Safety Team	Mid Sussex District Council Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: healthandsafetyenforcement@midsussex.gov.uk
OR The Health & Safety Executive	OR The Council Offices Station Road East Oxted Surrey RH8 0BT	OR
5. District Planner	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: planninginfo@midsussex.gov.uk
6. Team Leader - Environmental Protection Team	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: envhealth@midsussex.gov.uk
7. Trading Standards	WSCC Trading Standards Service 4th Floor, County Hall North Chart Way Horsham RH12 1XH	Tel: 01243 642124 Email: trading.standards@westsussex.gov.uk
8. The Director of Social & Caring Services	Child Protection ~ WSCC Children's Access Point 4th Floor, County Hall North Chart Way Horsham RH12 1XH	Tel : 01403 229900 Email: socialcare@westsussex.gov.uk
9. West Sussex Public Health	The Director of Public Health Public Health Licensing West Sussex County Council 1 st Floor The Grange County Hall Campus Chichester PO19 1QT	Tel: 0330 22 28683 Email: PublicHealth.Licensing@westsussex.gov.uk

Document 3

GENERAL ADVICE

1. The following is general advice for applicants. It is not comprehensive. In cases of doubt please contact the Licensing Team or seek independent legal advice.
2. Applications for Premises Licences and Club Premises Certificates
Applications must be accompanied by various documents and fees. For example, an application for a Premises Licence or Club premises certificate must be accompanied by: -
 1. The required fee;
 2. An operating schedule;
 3. A plan of the premises;
 4. And if the application involves the supply of alcohol, consent form in relation to the designated premises supervisor.

If any application is not accompanied by the specified accompanying documents and fees, it will be the Council's policy to return it to the applicant as an incomplete application. Such applications will not be considered until all necessary support documentation is received.

Copies of an application for the grant or variation of a Premises Licence or Club Premises Certificate (other than a Minor variation) must be forwarded to the Responsible Authorities at the same time as service on the Licensing Authority. The exception to this is an application submitted by way of an online form. In these cases the Licensing Authority will forward copies to the Responsible Authorities.

3 The Operating Schedule

This forms part of the completed application for a premises licence. An operating schedule should include information that is necessary to enable any responsible authority or other person to assess whether the steps to be taken to promote licensing objectives are satisfactory. For example, it should include a description of the style and character of the business to be conducted on the premises (e.g. a supermarket, or a cinema with six screens and a bar, or a restaurant, or a public house with two bars, a dining area and a garden open to customers).

It should also indicate the type of activities available on the premises, whether licensable under the 2003 Act or not.

If music is to be provided, it is important that clear indication is given of the type of music to be provided.

Information in this section is essential so that responsible authorities and other persons can form a proper view as to what measures may be necessary to ensure public safety and prevent public nuisance. An operating schedule must also set out the following details: -

- a. The relevant licensable activities to be conducted on the premises;
- b. The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular

seasons, if it is likely that the times would be different during different parts of the year);

- c. Any other times when the premises are to be open to the public;
- d. Where the licence is required only for a limited period, that period;
- e. Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
- f. Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both;
- g. The steps which the applicant proposes to take to promote the licensing objectives.

4 Capacities in premises.

The Licensing Authority will not, as a matter of course specify capacity numbers on premises licences or club premises certificates. The exception to this will only be after relevant representations from the Fire Authority or other Authority qualified to give advice on this subject.

It is the legal responsibility of the nominated person at the premises to assess safe capacities in accordance with the Regulatory Reform (Fire Safety Order) 2005.

5 Fire safety

Venue operators will be expected to comply with any existing Fire Safety requirement relevant to the building and to seek the advice of the Fire Authority where such fire safety advice does not extend to all/any licensable activity. Licensing Conditions, that duplicate requirements, under the Regulatory Reform (Fire Safety Order) 2005 will not be attached to premises Licences or Club Premises Certificates.

6 Copyright and Royalties

Venue proprietors are reminded of the necessity to obtain appropriate Performing Right Society Licences and Phonographic Performances Ltd. Licences and to observe other copyright arrangements.

7 Door Supervisors

Where a condition is included in a premises licence requiring the provision of Door Supervisors, or Door Supervisors are provided, such persons must be licensed by the Security Industry Authority.

8 Personal Licences

(see also LA2003 Section 111 onwards)

In the case of new applicants for Personal Licences under Part 6 of the Licensing Act 2003, the applicant must:

- Be aged 18 years or older.

- Possess a licensing qualification accredited by the Secretary of State.
- Not have had forfeited a personal licence within 5 years of his or her application and
- The police have not given notice of objection following notification of any unspent relevant offence or foreign offence or
- The police have given an objection notice because of a conviction for an unspent relevant offence or a foreign offence but the Licensing Authority has not considered it necessary to reject the application on crime prevention grounds and
- The applicant has paid the appropriate fee to the Licensing Authority.

In addition, such applicants will be required to produce a Disclosure and Barring Service Certificate to the Licensing Authority to substantiate whether or not the applicant has a conviction for an unspent relevant offence. This Certificate must be dated within 30 days of the date of the licence application.

Applicants will also be expected to make a clear, written statement declaring whether or not they have been convicted of a foreign offence. This applies to both applicants originally resident in England and Wales as it does to any person from a foreign jurisdiction. 'Relevant Offence' for the purpose of the foregoing requirements is as defined in the Licensing Act 2003.

Applicants will provide two photographs with their application. One must be suitably endorsed regarding identity. The endorser is required to complete a photograph endorsement form.

9 Variation of Existing Premises Licence and Club Premises Certificate

There are two ways in which a Premises Licence or a Club Premises Certificate can be varied.

1. The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 allows on application the variation of a licence described above through a shorter process than a full variation.

The process involves an application form and fee to the Licensing Authority. The Licensing Authority decide which of the Responsible Authorities they will forward copies of the application to. This Authority will always send a copy to Sussex Police

There is a 10 working day consultation period during which the application must be advertised at the premises. The matter must be determined within 5 working days of the end of the consultation period by the Licensing Officer. If no decision is made the application is NOT granted. There is no Licensing Committee Hearing and no right of appeal against the decision.

This procedure cannot be used as follows:

- a. Extend the period for which the licence has effect
- b. Vary substantially the premises to which it relates

- c. Specify an individual as Designated Premises Supervisor
- d. Add the supply of alcohol as an activity authorised by the licence
- e. Authorise – 1. the supply of alcohol at any time between 2300 and 0700 or an increase in the amount of time on any day during which alcohol may be sold by retail or supplied or
- f. Include the alternative licence condition in Section 41D (3) Licensing Act 2003 (disapply Mandatory Condition for DPS)

2. All other applications for variation must be via the full variation system, which involves a 28 day consultation period, advertising in a local newspaper and copies of the application to all Responsible Authorities.

10 Major Events

Attracting thousands rather than hundreds of people may pose a risk to public safety and crime and disorder as well as public nuisance.

Organisers of such large scale events must give early notification to the Licensing Authority in order that responsible authorities and statutory agencies may discuss 'operating schedules' with the organisers well before a formal application is submitted.

Many large scale events will give rise to special consideration in respect of public safety. 'Operating schedules' should, therefore, reflect an awareness of these matters.

11 Applicants are encouraged to seek advice from the Licensing Team before submitting an application. Potential problems may be resolved before embarking upon a course of action that could prove to be expensive and time consuming for want of an informal discussion.

12 Where the Licensing Authority considers that action is necessary under its statutory powers it may take any of the following steps:

- f. To modify the conditions of the licence ... which includes adding new conditions or altering existing ones.
- g. To exclude a licensable activity from the scope of the licence eg exclude the performance of live music or recorded music.
- h. To remove the designated premises supervisor
- i. To suspend the licence for the period not exceeding three months.
- j. To revoke the licence.

Further details about reviews including the relevant forms can be found at DCMS website, [details in Appendix.](#)

DOCUMENT 4

INTERNET SOURCES OF INFORMATION ON THE LICENSING ACT 2003

- (a) The Licensing Act 2003 and associated Guidance may be viewed at www.gov.uk/alcohol-licensing
- (b) Regulations made under the Licensing Act 2003 may be viewed at www.gov.uk/alcohol-licensing
- (c) Mid Sussex Council's Licensing Policy may be viewed at www.midsussex.gov.uk -(Click on Environment and Planning - Licensing)
- (d) Mid Sussex Council Licensing Pages including Application Forms , Guidance for Advertising applications and addresses for the Responsible Authorities may be viewed at www.midsussex.gov.uk -(Click on Environment and Planning - Licensing)
- (e) Information about representations and seeking a review can be found at www.gov.uk/alcohol-licensing (click on Alcohol and Entertainment)
- (f) Information about Mandatory conditions, Minor Variation orders, Community Premises with no DPS can be found at www.gov.uk/alcohol-licensing
- (g) Mid Sussex Council's Sex Entertainment Venue Policy may be viewed at www.midsussex.gov.uk -(Click on Environment and Planning - Licensing)
- (h) Mid Sussex Council's Environmental Health Enforcement Concordat can be viewed at www.midsussex.gov.uk (Click on Environment and Planning – Environmental Health).

Advertising Applications

If you are applying for a new Premises Licence, a new Club Premises Certificate or to vary an existing Premises Licence/Club Premises Certificate the application must be advertised.

If a Premises is proposed to be built, is under construction, or being extended/altered for use for licensable activities then you will need to apply for a Provisional Statement, this type of application must also be advertised.

The application has to be advertised in the following ways:-

1. A Notice shall be displayed prominently at or on the premises to which the application relates where it can be conveniently read from the **exterior** of the premises for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant authority.
2. The notice must be placed so that it can be read without having to enter your property ie, without having to cross car parks, patio areas or other such areas between the public footway and your building. In these cases a notice should be displayed on the building AND on a perimeter fence, post, wall abutting the street/highway.
3. The notice shall be of a size equal or larger than A4 on a pale blue colour and printed legibly in black ink in a font size equal or larger than 16.
4. A Notice should be advertised in a local newspaper within 10 working days of the day after the day the application is given to the relevant authority.
5. Please contact the Licensing Team (01444 477419) before completing your advert to ensure the correct date is inserted or if you have any other query about the advertising process.
6. If the advert is incorrectly worded or sited you will have to re advertise. This will cost you extra money and the consultation time will have to restart.
7. You may want to consider sending a copy of the notice you intend to display, with your application.

To help you advertise your application the template below can be used.

**THIS NOTICE MUST BE IN FONT 16 OR LARGER
AND PRINTED ON PALE BLUE PAPER**

PUBLIC NOTICE

**Licensing Application
Licensing Act 2003**

An application has been made by (*insert name person(s), club or brewery*) to the Licensing Authority for the Mid Sussex District for the grant of a new/variation (*delete as applicable*) of a Premises Licence/Club Premises Certificate (*delete as applicable*) for (*insert name and full address of premises*).

The application includes proposals for the following licensable activities (***include relevant hours***) (*delete and amend as applicable*)

- i) sell alcohol by retail;
- ii) provide regulated entertainment (*specify the licensable activities*)
- iii) provide late night refreshment

The application may be viewed at the Main Reception, Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS. from 8:45am until 5:15pm Monday to Thursday and 8:45am to 4:15pm on Friday. Or alternatively on [www. midsussex.gov.uk](http://www.midsussex.gov.uk) search fro Licensing Applications received.

Responsible Authorities or any other persons may make representation on or before (*insert expiry date for representation(s)*).

All representations shall be made in writing to The Licensing Officer at Mid Sussex District Council.

It is an offence knowingly or recklessly to make a false statement in connection with an application, the maximum fine for which a person is liable is £5,000, on summary conviction for the offence.

DOCUMENT 6

**GUIDANCE ON THE PREVENTION OF CRIME AND DISORDER
AND THE PROVISION OF PUBLIC SAFETY**

The below list will be seen as appropriate measures in support of the statutory crime prevention and public safety objectives as defined within the Act. The list should not be considered complete or exclusive and is only provided as guidance

Public Safety Measures / Crime Prevention

- Use of CCTV.
- Use of door supervisors who are properly trained and licensed by the Security Industry Authority.
- Search facilities and existence of a prevention of drugs policy.
- Provision of free and accessible drinking water.
- Use of non-breakable glasses.
- Measures to ensure frequent collection of used drinking vessels from public areas.
- Measures to prevent bottles and glasses being removed from the venue.
- Measures to prevent 'spiking' of drinks.
- Measures to ensure discounted drink prices or 'happy hours' are either not featured or abused.
- Membership of 'pub watch' or similar scheme.
- Membership of 'pass' age accreditation scheme or similar.
- Provision of appropriate staffing within venue.
- Staff training measures.
- Working with public transport providers to ensure efficient dispersal of customers from the venue.
- Appropriate customer dispersal policy.

DOCUMENT 7

GUIDANCE ON THE PREVENTION OF PUBLIC NUISANCE

The below list will be seen as appropriate measures in support of the public nuisance objective as defined within the Act. The list should not be considered complete or exclusive and is only provided as guidance.

- Statement within operating schedules as to terminal licensing hour during which time alcohol may be purchased and a further statement outlining until what time patrons will be allowed to remain on premises.
- Provision of CCTV inside and immediately outside of the venue.
- Provision of lighting and litterbins in and around venue (after consultation with Planning Authorities.)
- Provision of licensed door supervisors.
- Notices inside venue, clearly visible and adjacent to exits, advising that patrons are in a residential area (if appropriate) and requesting that noise be kept down.
- Fitment of a sound limitation device in respect of amplified entertainment and set, where appropriate, in accord with a professionally qualified sound consultant's recommendation.
- Fitment of an air conditioning system.
- Policy to require all windows and doors to be kept closed during periods of public entertainment.
- Policy of selling only soft drinks in the half hour preceding terminal hour.
- Provision of 'calming' or less energetic music in the period prior to the terminal hour.
- Policy to avoid 'binge drinking'.
- Measures to ensure discounted drink prices or 'happy hours' are either not featured or abused.
- Provision of private public transport for patrons at times when public transport is either not available or has ceased to operate.
- Membership of pub watch or similar scheme.

- Appropriate customer dispersal policy.

DOCUMENT 8

GUIDANCE ON THE PROTECTION OF CHILDREN FROM HARM

The below list will be seen as appropriate measures in support of the protection of children from harm objective as defined within the Act. This list should not be considered complete or exclusive and is only provided as guidance.

- Adoption of any measures recommended by West Sussex Social and Caring Services.
- Existence of age exclusion policy when 'adult entertainment' is taking place.
- Membership of 'pass' or other age accreditation scheme.
- Membership of 'pub watch' or similar scheme.
- Appropriate provision of trained staff.
- Provision of CCTV.
- In premises where the consumption of alcohol is the exclusive or primary activity – the provision of facilities for accompanied children under 16 years set aside from the area where alcohol consumption is the primary activity.
- Situation of gaming machines or like devices in such a position to prevent abuse by children.

DOCUMENT 9



**Mid Sussex District Council
Environmental Health Section
Oaklands, Oaklands Road
Haywards Heath
West Sussex
RH16 1SS**

**GUIDANCE ON CONTROLLING NOISE FROM PREMISES SUCH AS PUBS, CLUBS,
VILLAGE HALLS AND OTHER COMMUNITY BUILDINGS, AND OUTDOOR EVENT
VENUES.**

Introduction

The Mid Sussex Council frequently receives complaints from residents about noise from premises, especially during the warmer weather. The Council has a statutory duty to investigate such complaints and to take action if the noise is considered to be a statutory noise nuisance. Such investigations can be very lengthy and may result in unwelcome restrictions on activities and entertainments, requirements for works to reduce noise and ultimately large fines being imposed upon the persons responsible. Therefore we believe that there are advantages to all concerned for noise problems to be resolved informally, or preferably avoided altogether.

The purpose of this leaflet is to give practical guidance to the people in control of premises on how to control noise from a wide range of potential sources and thus help them to avoid causing noise disturbance to their neighbours.

The leaflet covers matters such as: -

- Legal responsibilities of people in control of premises, such as managers and licensees.
- Common sources of noise and practical tips for controlling them (including amplified music, dispersal of patrons, deliveries of stock, beer gardens and children's play areas, cleaning and bottling out, fireworks, ventilation plant).
- Finding specialist consultants.
- How to contact the Council for further advice.

Legal Responsibilities

In addition to licensing controls, the Council has a duty under the Environmental Protection Act 1990 to investigate noise complaints concerning all types of premises and if a noise nuisance is found to exist the Council must require the person responsible, by Notice, to take

steps to ensure that the nuisance is abated. Failure to comply with the Notice is an offence punishable by a fine of up to £20,000 in the Magistrates Court.

Legally persons responsible for any noise nuisance or breach of entertainment licence conditions are most likely to be breweries, owners, tenants, managers, licensees, disc jockeys, club officials and performers.

A licensee convicted of breaches of the above mentioned legislation also risks revocation of their licence.

Where a complaint of noise is received regarding a premises, the matter will be brought to the attention of those responsible for the management of the premises and discussions will take place. At this stage, if the problem is resolved, there will be no need for further investigations. However, if the complaint continues and evidence is gathered which substantiates the complaint, formal action will be taken.

Noise Sources At Licensed Premises and Practical Tips For Controlling Them

Amplified music and entertainment

Even relatively modern purpose built premises have often not been designed and constructed so as to prevent problems arising due to the “breakout” of noise caused by the use of amplified music, public address systems and video juke-boxes etc.

Very often the noise from entertainment gives rise to disturbance due to low frequency bass notes that can easily pass through structures. Control of noise by simply reducing the volume can be effective, however if the noise is structure-borne this can be complex and expensive.

Many complaints about this type of noise occur in the summer months when windows & doors are left open for ventilation and people use their gardens more. To try & predict whether a particular type of entertainment noise is likely to give rise to noise nuisance, the noise levels are best judged at the boundary of neighbouring houses, or other noise sensitive positions, as opposed to within the entertainment venue itself. Another factor to bear in mind is that the more often noisy events occur and the later they finish, the more likely they are to give rise to complaints.

Tips to control entertainment noise:

1. Contact a specialist consultancy (see acoustic engineers/acoustic consultants/noise and vibration consultants in Yellow Pages/Thompson Local/Internet and arrange for a survey and the installation of a sound insulation scheme for the premises, to insulate the premises against the transmission of impact/airborne noise. Measures may include acoustic double/secondary glazed windows, with an air gap of at least 100 mm between glazed panels; sound insulation within ceiling voids to eliminate noise breakout through ceiling and roofs.
2. Install an acoustic lobby to the entrance of the entertainment room and ensure doors are closed at all times to ensure effective insulation.
3. Whenever possible avoid holding musical entertainment in rooms with windows and/or doors facing out onto nearby residential property.
4. Acoustic door seals should be fitted to doors to minimise sound escape from premises.

5. Windows should be kept closed at all times. If the windows are openable, they should be closed whilst music is played. Doors should be kept closed as much as possible. They should be close fitting and constructed from dense, heavy materials.
6. Mechanical ventilation systems should be fitted to ensure that sufficient ventilation exists without opening windows and doors. All ventilation outlets should be fitted with acoustic baffles.
7. Control of entertainment sound levels should be under the direct control of the person responsible for the management of the premises and should never be left to the entertainers or disc jockey.
8. Later in the evening the background noise level in most areas reduces. Consequently, noise from premises that remain open at night becomes far more obvious and potentially annoying to residents.
9. A sound limiting/cut out device should be installed and the maximum sound level agreed and approved by the Council's Environmental Protection Team.
10. Exit doors/fire doors can be connected to a sound limiting/cut out device, so that if a door is opened during a performance, the device is activated and the music will instantly either stop or be reduced in volume. Obviously, doors must still be available for use as fire exits and must not be locked.
11. Structures such as conservatories, which offer very little resistance to noise, should never be used for the playing of music if the premises are located in a residential area.
12. A very effective way of controlling noise from premises providing entertainment, whether it be public or private (such as a wedding or birthday party at a village hall), is for there to be a responsible person present, who can ensure that DJs and/or musicians do not play music at an unreasonable volume. Generally this responsibility will fall to the licensee however, in the case of village halls and other community premises, which are often managed by a committee made up of volunteers, it may be necessary for the committee to arrange for such a person to be present. It is also good practice for another responsible person to "patrol" the boundary of the site from time to time, to ensure that noise escaping from the premises is not excessive. However, this person should not come from within the premises, as loud music will have caused a "temporary threshold shift" and dulled their hearing, making it difficult for them to make a realistic assessment of the impact of the noise. In some cases it can also be helpful if the occupiers of adjacent potentially noise sensitive properties are given the contact name and telephone number of this person, in order that they can report any problems as they occur and hopefully have them resolved immediately.

Patrons

The responsibility for the behaviour of noisy patrons must rest with the person responsible for the management of the premises, who should take all reasonable steps to ensure that they do not cause noise nuisance whilst on the premises or disturbance whilst dispersing from the premises. Another common cause of disturbance is taxis picking up people after the event has finished and cars screeching, sounding horns etc.

Tips to control noise from patrons:

1. Provide notices in conspicuous positions requesting the co-operation of patrons particularly when leaving the premises.
2. Employ experienced and trained door stewards to restrict entry at certain times and to control noisy patrons.
3. A reliable transport provider should be used for collecting customers, ensuring that the operators are aware that there should be no sounding of horns etc. that may disturb nearby residents.
4. For some types of event and venue it may be worth considering selling tickets that include the price of patrons being conveyed to and from the venue by private coach. If managed well this can result in patrons leaving the premises much more promptly and quietly.

Deliveries

Noise disturbance can occur if stock deliveries are made at unsociable hours i.e. late at night or early in the morning.

Tips to control noise from deliveries:

1. Ensure deliveries are not made late at night or early in the morning.
2. When loading or unloading takes place consideration should be given to working methods, which minimise noise.

Beer Gardens and Children's Play Areas

Premises that have beer gardens and children's play areas may cause noise nuisance if residential premises are nearby. This problem will be exacerbated in the summer months.

Tips to control noise from beer gardens and children's play areas:

1. Music should not be played in these areas. Doors leading onto the beer garden/play area should be kept closed, in order to contain the noise.
2. Management should control customers behaviour in order to ensure it does not give rise to noise nuisance.
3. Access to these areas should be restricted, particularly at night, to ensure noise is controlled.
4. Place play equipment and plant such as air blowers for bouncy castles, away from any residential boundaries.

Cleaning and Bottling Out

Cleaning and bottling out especially, after the premises has closed, has the potential for causing noise nuisance. Staff emptying bottles into bins or moving bins to collection points can create considerable noise. If this is occurring after closing time or in the early hours of the morning; it will, if residential premises are nearby, cause noise nuisance.

Tips for controlling noise from cleaning and bottling out:

1. Refuse storage areas should be sited away from residential properties.
2. Cleaning and bottling out should not occur late at night or early in the morning; it should be carried out during the normal working day.
3. Provide a smooth pathway between the pub and store area.

Plant & Equipment

Noise from the operation of chiller units, extract ventilation systems and air conditioning systems can give rise to complaints of nuisance, particularly late at night. When buying or installing such plant and equipment consideration should always be given to the level of noise it is likely to produce. In some cases it may be necessary to obtain Planning Permission and/or Building Regulations approval prior to the installation of such plant and you should always seek advice on this from the Council's Development Control & Building Control Divisions.

Tips for controlling noise from plant & equipment:

1. Install, operate and maintain equipment in accordance with the manufacturer's instructions.
2. Where possible locate equipment and exhaust outlets away from (or screened from) dwellings.
3. Always obtain specialist advice when planning to install plant and equipment regarding the level of noise it is likely to generate and where appropriate ensure that properly designed acoustic silencers, screens and/or enclosures are used.

Communication Can Be The Key To Good Relations With Your Neighbours And The Council

Whatever entertainment you currently provide or are planning for your premises, you would be well advised to consider it from your neighbour's perspective. By thinking carefully about how entertainment held at your premises may impact upon your neighbours, by identifying elements of the entertainment that will need particularly careful management and then by discussing your plans with your neighbours, you are more likely to avoid causing a nuisance.

Contacting The Council For Further Advice

For further information concerning the legal & technical aspects of preventing statutory noise nuisance please contact:-

Mid Sussex District Council
Environmental Health Section
Environmental Protection Team
Oaklands
Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

Telephone: 01444 477292

e-mail: envhealth@midusussex.gov.uk

For further information concerning the legal requirements for public entertainment licensing please contact:-

Contacting Specialist Consultants

You should be able to obtain details of acoustic consultants specialising in sound surveys and noise attenuation schemes for licensed premises, by looking under acoustic engineers/acoustic consultants/noise and vibration consultants in your local Yellow Pages/Thompson Local directory. Alternatively, the following organisations may be able to provide you with consultant's details:-

The Institute of Acoustics
77A St. Peters Street
St. Albans
Hertfordshire
AL1 3BN

Telephone: 01727 848195
or via e-mail at www.ioa.org.uk

The Chartered Institute of Environmental Health
Chadwick Court
15 Hatfields
London
SE1 8DJ

Tel. 02079286006
or via e-mail at www.cieh.org