

# Licensing Act 2003 statement of licensing policy

2021 to 2026

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**Version:** 2.0 (published)

**Last updated:** 27 December 2023

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# 1. Vision statement

Luton is a town with ambitions of opportunity, aspiration and prosperity. We want to ensure that Luton can continue to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe and well regulated environment to help meet this goals.

Together with our partners, we will promote positive cross agency and sector workings so that police, regulators, operators, residents and visitors work together to create a vibrant town where businesses prosper and residents live peacefully.

We want to ensure equal opportunities for all residents, workers and visitors, regardless of age, disability, sex, gender, gender identity, race, religion, or sexual orientation.

Responsibly licensed premises make a positive contribution toward building community cohesion and cultural development. A responsibly operated licensed premises is one which is run as a well-regulated business, that is safe and well managed, one which promotes all four of the licensing objectives and which engages and works with the local authority, its partners and the local community to promote the overall public interest of which it is a participant and beneficiary.

However, it is equally recognised that negative impacts will occur if good management practices are not followed by licensed premises. These can include antisocial behaviour, nuisance and disturbance caused to local residents, sometimes together with crime and disorder problems. Alcohol, in particular, is an important contributing factor to all of these issues.

Alcohol related violence, disorder and rowdiness impact on our community, public health and the public purse through the demands made upon hospital attendances and admissions; additional policing; additional street cleaning; and the criminal justice system. The authority does not consider that it is reasonable for local residents and responsible businesses to suffer because of a small number of irresponsible, poorly managed operators.

Working collaboratively with our partners, the licensing authority intends to create an approach to licensing which:

- supports applicants and operators to understand and meet their obligations
- robustly undertakes its duties as a licensing authority to ensure that all relevant parties have the opportunity to participate in the licensing process
- ensures that decision makers have the right information they need to apply the licensing policy
- operates transparently in line with new and existing legislation
- contributes positively to the broader Luton agenda including vibrant, inclusive and welcoming public spaces, a more diverse leisure and entertainment offer and the commitment to keep Luton safe and tidy

Without doubt 2020 has been a year of enormous change across the world, presenting uncertainty, new challenges and new opportunities including the covid 19 pandemic, the black lives matter movement and the climate change agenda. These issues, whilst global, are relevant and significant to Luton.

The Statement of Licensing Policy sits within a broader policy and strategy framework for Luton. Our vision is to ensure that licensing functions in Luton are carried out in a way that seeks to make a positive contribution to the key agendas, listed below, that are shaping the future of the town.

## Luton 2040 – No one in poverty

This is our top priority and serves as the conduit for real and meaningful change in the town. Poverty is at the centre of some of the biggest challenges the town faces. Licensed premises

which are well run and managed have the opportunity to make a real and beneficial impact on this agenda through local wealth building by:

- providing local, flexible job roles
- contributing to an attractive day and night time leisure and entertainment offer.

Delivering responsible and ethical operating models which take into account the harm and effects alcohol can have on both individuals and the local community and taking steps to mitigate the financial, health and environmental impacts. Our [2040 no-one in poverty ambition](#) (sets out the overarching priorities for the town, all of which are the key strategic considerations of this policy).

## Safeguarding

The safeguarding of children and vulnerable adults, protecting them from harm and promoting their welfare is everyone's responsibility. The wider safeguarding context must be considered with utmost importance throughout the licensing application process, during assessment and determination processes and throughout the life and operation of the license.

Responsible authorities, including Children and Adult Services and Public Health, will be actively engaged within the licensing framework to ensure that all relevant opportunities to promote the safeguarding agenda are pursued. License holder and prospective holders will need to demonstrate an ongoing commitment and ability to take appropriate steps to play an active role within the safeguarding agenda. ([See appendix D](#) for further information).

## Equality, diversity and inclusion

Promoting equality, diversity and inclusion across Luton must remain central to delivering our functions. This policy recognises the characteristics, which are protected under the Equality Act 2010:

- race
- sexual orientation
- sex (gender)
- disability
- gender reassignment
- age
- religion or belief
- pregnancy and maternity
- marriage and civil partnership

As a licensing authority, we're fully committed to:

- discharging our duties under the Public Sector Equality Duty
- building the equality, diversity and inclusion context into all aspects of the licensing process

License holders and prospective holders will be required to take steps to uphold and promote equality, diversity and inclusion principles throughout the application process and duration of their operations.

## Community safety considerations

Our aims are to make Luton's streets cleaner and safer. We acknowledge that litter and antisocial behaviour often accompany street drinking and is a common issue in Luton, specifically in the town centre, but also other open areas can cause distress for local people. This in turn can lead to deterioration in the environmental amenity of any area, creating a threatening and hostile environment where crime and fear becomes the dominant feature.

The reduction in levels of crime, the fear of crime and antisocial behaviour and street drinking is one of the community partnerships key targets.

Through the introduction of the Public Space Protection Order (PSPO) and the work of the Community Safety Partnership, we feel that as a local authority we can work to combat these local issues. See paragraphs [8.2](#) and [8.3](#) for more information.

Holding a licence and operating a licensed premises is a privilege and a responsibility. We expect all those involved in the process, including responsible authorities, decision makers and applicants/operators to have the highest regard for the positive contribution they can make to improving community safety, mitigating any detrimental impact on the local residents and helping to create safe and enjoyable public spaces for all residents and visitors to Luton.

## Ending violence against women and girls

In 2019, we introduced a policy to set out our commitment to ending violence against women and girls. Luton is a safe town, but too many women and girls feel unsafe when accessing public spaces, going out to social venues or when travelling for a night out.

Sexual harassment, domestic and sexual violence is a real and live concern for many women and girls, which is a direct violation of their right to access local facilities freely and safely without fear.

Too often, these incidents go unreported. We expect all applicants and operators to demonstrate an absolute commitment to taking action to eradicate violence against women and girls in our town. We look forward to seeing robust plans from applicants on the steps they will be taking to actively support this ambition.

We will also work with the Luton Safe initiative to promote best practice amongst existing operators. Further information on the Ending Violence Against Women and Girl's Policy can be found at [Luton.gov.uk/CommunitySafety](https://Luton.gov.uk/CommunitySafety),

## Covid-19 and other similar national emergencies impact and response

The impact of covid-19 has been unprecedented across many areas of work, with licensed premises specifically impacted by a long period of Central Government led lockdown between 2020 and 2021. As a licensing authority, we had to respond to the pandemic and have implemented changes such as virtual licensing panels, implementing short term changes to procedures and considering the policy implications for Luton.

When national emergencies occur the licensing authority will be committed to supporting local licensed premises alongside national guidelines, responses and requirements.

It is our intention to ensure that we fully comply as a licensing authority with any new regimes and requirements. Licensed premises and holders will also be required to comply fully with any new regulations or requirements placed upon them at a national level. We encourage all licensed premises to talk to the licensing authority, Police and other relevant responsible authorities at the earliest opportunity if they are uncertain regarding any compliance with any new requirements.

### 1.1 Duration and review of policy

This policy took effect in 7 January 2021 and will remain in force for a period of not more than five years. During this time the policy will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

This policy was reviewed and amended and takes effect in 27 December 2023.

We also published a Cumulative Impact Assessment in 7 January 2021.

We recognise that policy frameworks change, new or emerging issues arise at both a local and national level which may need to be considered when applying this licensing policy. We may therefore, from time to time, make new applicants and existing licence holders and operators aware of these changes so that they can ensure they meet any future challenges.

## 2. Introduction

### 2.1 Purpose and scope of the licensing policy

The Licensing Act 2003 ('the act') requires licensing authorities to publish a 'statement of licensing policy' every five years, which sets out:

- how they intend to exercise their functions
- a general approach to making licensing decisions

The discretion of the licensing authority in relation to applications is only engaged if relevant representations are made. Each application will be considered on its own individual merits. For the purpose of this statement of licensing policy, we are the licensing authority.

This policy aims to set out a general approach to making licensing decisions. It does not aim to undermine the right of any person to apply under the terms of the act for a variety of permissions and to have any such application considered on its own individual merits.

Similarly, the policy will not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provisions has been made for them to do so.

It should be noted that licensing legislation is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.

Nonetheless, this policy is a key aspect of such control and licensing law will always be of an approach to management of licensed premises.

The policy covers regulating personal licences, and licensable activities on licensed premises, qualifying clubs and temporary events. The policy covers the following licensable activities:

- retail sale of alcohol for consumption both on and off the premises
- supply of alcohol by or on behalf of a club
- provision of regulated entertainment
- provision of late refreshment (hot food and drink at any time between 11pm and 5am for consumption on or off the premises)

The policy has been prepared in accordance with the provisions of the Licensing Act 2003 and the [section 182 guidance](#) issued by the Secretary of State. The licensing authority must carry out its licensing role with a view to promoting the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

It's important to note that all objectives have equal importance in the implementation of this policy.

The Licensing Act 2003 also supports several other key aims and purposes. These are vitally important, should be the principal aims for everyone involved in licensing work and will therefore be integral to the policy. They include:

- protecting the public and local residents from crime, antisocial behaviour and noise nuisance caused by irresponsible licensed premises
- giving the police and licensing authorities the powers they need to effectively manage and police licensed premises and take action against those premises that are causing problems
- recognising the important role which licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises
- providing the regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them

## 2.2 Consultation

In accordance with section 5 of the act and prior to the publication of this policy the licensing authority consulted with:

- Chief Officer of Police (Bedfordshire Police)
- Bedfordshire Fire and Rescue Authority
- Persons/bodies representative of local holders of premises licences
- Persons/bodies representative of local holders of club premises certificates
- Persons/bodies representative of personal licence holders
- Persons/bodies representative of businesses and residents in its area
- Parish councils in Luton
- Elected members of Luton
- Licensing committee and ward committees for Luton
- Luton Business Improvement district
- Trade associations and federations
- Licensing Law firms
- Local charity and volunteer groups
- Transport Networks
- Luton community safety partnership
- Good night out

## 3. Town profile

### 3.1 Luton and its people

Luton is a large town, borough and unitary area of Bedfordshire, geographically situated in the south east of England, but in the east of England region for administrative purposes. According to the office of national statistics Luton has a population of approximately 214,700 people and is one of the most populous towns without city status in the United Kingdom.

The town is situated on the River Lea about 30 miles northwest of London. The town's foundations date back to the sixth century as a saxon outpost on the River Lea, from which Luton derives its

name. Luton is home to one of the largest churches in Bedfordshire, St Mary's church which was built in the 12<sup>th</sup> century. There are local museums which explore Luton's history in Wardown Park and Stockwood Park.

London Luton Airport opened in 1938 and is now one of Britain's major airports. This alongside three railway stations, the M1 and the wider road network provide the main gateways into the town. The University of Bedfordshire was created from a merger with the University of Luton with two of its campuses in the town.

Luton Town Football Club, nicknamed "the Hatters" due to the town's connection to hat making, play at Kenilworth Road, their home since 1905. Planning permission for a new larger stadium was approved in 2019. Luton International Carnival, the largest one day carnival in Europe, is held on the day before the last Monday in May, and the Saint Patrick's festival is held on the weekend nearest to Saint Patrick's Day as there is a large Irish community in Luton.

The town also has a large Pakistani community, which along with the Irish were attracted to employment at the Vauxhall car plant. Luton Hoo is an English country house, estate and grade I listed building designed by Scottish architect Robert Adam.

Luton is densely populated and is in the conurbation with the neighbouring towns of Houghton Regis and Dunstable. The town centre has the Galaxy Centre with restaurants and a multiplex cinema, an arts centre, a theatre, and a range of pubs and restaurants.

The council considers that licensed entertainment provides a valuable contribution towards the local economy, tourism and cultural development of the town. The council also recognises that such entertainment can lead to increased noise, nuisance and crime and disorder, if not properly controlled. In particular, the council wishes to minimise any negative impact from licensed entertainment on residential households.

The unemployment claimant count rate in Luton is 5.2% which is higher than the national rate of 3.7%. The number of economically inactive people has increased in Luton, rising from 24.4% to 27.7% between 2021 and 2022. Luton's economic inactivity rate is higher than the national rate of 21.3%.

The number of people in Luton with degree level qualifications has been rising but is still lower than national rate. The proportion of people in Luton without any qualifications is higher than the national rate, 22.9% compared with 18.1%.

Luton is currently ranked the 70th most deprived out of 317 local authorities, in 2015 Luton was ranked 59th most deprived area from 326 local authorities. Therefore Luton is less relatively deprived than in 2015.

The proportion of areas in Luton in the top 10 per cent most deprived parts of the country has fallen with Luton having four output areas in the top ten per cent most deprived. These are in Northwell, South and two in Farley. Previously Luton had nine areas in the top ten per cent

Luton's highest deprivation rankings are in the barriers to housing and services (25th), income deprivation affecting older people (43rd) and crime (58th) indicators, with the highest (least deprived) ranking in the living environment (120nd).

### 3.2 Alcohol related harms in Luton

Luton Council's public health department has estimated that by the year, 2025 there will be a number of 8,275 approximately dependent drinkers in residing in the Borough of Luton, which is around 2.5% of the current adult population.

There is a public health burden of alcohol harms, public health England have estimated that the cost of impact of alcohol to healthcare, crime and disorder, social care, the wider economy has increased significantly over recent years.

Alcohol harms can have a significant impact on families and early identification and intervention is key when looking at parental substance misuse as well as joint working between substance misuse treatment services and children and family services, to ensure families and children get the right support. Children's services are increasingly working with children and families affected by substance misuse such as drugs and/or alcohol misuse, in 2015/16 69% of children subject to a child protection plan has substance misuse as an issue.

Alcohol has a significant impact on a number of health conditions and alcohol is seen as a factor in more than 60 medical conditions. Some of the key alcohol related health conditions are: cardiovascular disease (CVD), liver disease, mental and behavioural disorders, unintentional injuries and intentional self-poisoning and some cancers.

The Samaritans have recognised that the link between alcohol misuse and suicidal behaviours is well established. The risk of suicide is up to eight times greater when someone is abusing alcohol. Alcohol reduces inhibitions enough for an individual to act on suicidal thoughts and increases impulsivity, changes in mood and deepens depression.

Those in the most deprived groups in society carry the burden of alcohol related harm. The Samaritans have previously found that men are more likely to use drugs or alcohol in response to distress. There is a strong association between substance misuse and unemployment and lower socio economic status on the one hand, and suicidal behaviour on the other. Full details of the Samaritans report is available on the [Samaritans website](#). (Search 'alcohol and suicide policy briefing' on the Samaritans website).

Although physical health concerns are not a licensing objective, the authority is aware that there is a significant negative impact on the health and wellbeing of our residents and visitors caused by alcohol harms. This is reflected in hospital admissions and deaths from:

- alcohol related illnesses
- alcohol induced violence
- alcohol induced anti-social behaviour (including street drinking)

These issues impact on our town and local communities. Significant alcohol related hospital accident and emergency admissions and ambulance pick-ups are indicative of problems and may result in reviews of premises licences.

The evidence base for the impact alcohol has on the health and wellbeing of local areas is strong. For a full review of the evidence, the [Public health burden of alcohol: evidence review](#) is available (search 'public health burden of alcohol: evidence review' on gov.uk).

The Licensing Act 2003 states that children will normally have access to licensed premises unless there is a clear need them to be excluded. Under the Licensing Act, in practical terms, this means that all licensed premises must be able to demonstrate that children are safeguarded and appropriate measures are in place to avoid exposing them to risks; either through contact with inappropriate people, exposure to adult entertainment, consumption of drink or drugs and gambling.

There is separate legislation with regard to gambling contained in the Gambling Act 2005, which places a similar duty on responsible authorities to safeguard children.

This legislation encompasses children until their 18th birthday including customers, those working at the premises, those involved in the provision of performance/entertainment and those visiting or living at licensed premises.

Since 2012, the Luton Director of Public Health has been a responsible authority and is able to make representations on applications and initiate reviews. The Luton Director of Public Health has access to data and evidence that is useful and informative for the, development of policy, the consideration of applications and the conduct of reviews. This includes:

- evidence on the impact of alcohol on the physical and mental health of residents, particularly children
- data on hospital admissions for alcohol related illness and injury
- data from Luton Ambulance Service on alcohol related ambulance attendances
- data and evidence from local alcohol services, such as outreach and treatment services
- density of street drinkers within the local area

When such evidence and data is presented within the parameters of the four licensing objectives, national guidance and this statement of licensing policy, it will be considered and taken into account by the licensing sub-committee in reaching a decision when considering applications under the Licensing Act 2003.

### 3.3 Current profile of licensed activities in Luton

As of April 2023, the numbers of premises granted a premises licence/club certificate is 589.

The main categories are as follows:

- 109 restaurants
- 78 takeaways
- 23 registered clubs
- 40 public houses
- 5 nightclubs
- 236 off licences (supermarkets, grocers, cash and carry and petrol stations included)
- 4 open spaces
- 16 hotels
- 13 schools
- 3 community/sports centres
- 8 churches
- 4 casinos
- 2 airport premises
- 8 entertainment/leisure facilities
- 1 video hire shop
- 1 university
- 44 vacant commercial premises
- 1 cinema

The licensing authority has also issued 2,867 personal licences.

## 4. Administration, exercise and delegation of function

### 4.1 Making an application

The procedure and documentation required for the various application is prescribed by the Licensing Act 2003 and associated regulations. Further advice on how to make an application can be found on our council's website or on request from the licensing authority.

This policy sets out the licensing authority's expectations with regard to applications. Whilst applicants are not obliged to meet these expectations it is more likely that responsible authorities and other parties will make representations if they do not.

It is recognised by the licensing authority that licensed premises vary considerably in terms of the offer such as the:

- nature of operation
- size
- occupancy
- location
- clientele

Venues may offer alcohol, regulated entertainment or late night refreshment or any combination of these activities. There is therefore no definitive list of control measure that should be introduced by all premises. Licensed premises must be risk assessed by the applicant according to the activities and operation.

The section 182 guidance at paragraphs 8.41 to 8.49 laid out below sets out steps to promote the licensing objectives. The licensing authority expects that applicants to consider and apply this guidance when drafting their operating schedule.

#### Section 182 guidance

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate
- any risk posed to the local area by the applicants' proposed licensable activities
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact assessment), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the crime mapping website
- neighbourhood statistics websites
- websites or publications by local responsible authorities
- websites or publications by local voluntary schemes and initiatives
- online mapping tools

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage cooperation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the consideration given to the licensing objectives and any measures that are proposed to promote them.

In accordance with the Provision of Services Regulations 2009, online application facilities are available. Online application facilities for premises licences may be found on GOV.UK or on our website <http://www.luton.gov.uk/licensing>. Online applications for other categories of licence and consent are available on the website also. Where online applications are made, the application will

be taken to 'be given' when the applicant has submitted a complete application form and submitted the fee. The authority may choose to hold or defer an online application as per the Secretary of State Guidance whereby the application is considered incomplete.

The licensing authority offers a pre application advice service. This advisory service is chargeable. The advice is a bespoke service for all your licensing applications. The aim is to help you anticipate and respond to challenges that may arise during the application process.

However, please be aware that any advice given cannot pre determine the outcome of any licensing application, especially if representations are received and a hearing takes place before the Licensing Sub-Committee.

All applicants are advised to consider the appendices within this policy that set out measures to promote the licensing objectives, provide practical guidance on matters such as plans, notice requirements and also the contact details for the responsible authorities.

## 4.2 Personal licences

Under the Licensing Act 2003, the licensing authority will automatically grant applications for personal licences as long as:

- the applicant is over 18 years old
- has the qualification determined by secretary of state
- has not had a personal licence forfeited within five years of the date of application
- has not been convicted of any relevant foreign offence
- proves the correct entitlement to work in the UK

Personal Licence applications are processed administratively by the Licensing Service.

Bedfordshire Police may make representation where the applicant has been convicted of a relevant offence or relevant foreign offence. In such cases the Licensing Sub-Committee will consider the matter. The application will be refused if the Sub Committee determines that refusal is in the interest of the promotion of the prevention of crime objective. In all other cases the application will be granted.

## 4.3 Applications for club premises certifications

Club premises certificates may be issued to qualifying clubs, formerly registered members clubs. To be eligible for a club premises certificate the members of the club must have joined together for a particular social, sporting or political purpose and to purchase alcohol in bulk, for supply to members and their guests.

Qualifying conditions are specified in Section 61 of the Act and our council must be satisfied that these conditions have been met. This authority will require evidence to be submitted with any application that supports that the club is non-profit making and there is a minimum of a two day interval between an application and the acceptance of new members.

## 4.4 Variations and new applications

Where a premises licence holder wishes to amend their licence the act allows, in most cases, for an application to vary the licence to be made rather than requiring an application for a new premises licence.

Two variation processes exist, a simplified minor variation process provides for proposed variations that have no adverse potential impact upon licensing objectives. A separate full variation

process provides for variations that do have the potential to adversely impact upon the objectives. It should be noted however, that the proposals to extend the current physical licensed area of the premises concerned might require a new premises licence application to be made as set out in the Act.

In such cases, the applicants should discuss their proposals with Licensing Service before submitting an application in order to ensure the correct route is taken.

#### 4.5 Provisional statements

While applications for a full premises licence may be made in respect of a premises that is not yet complete. Our council would prefer to see provisional statements sought in the first instance in cases where the responsible bodies are not yet able to confirm that works have been carried out in compliance with agreed schedules.

However, our council acknowledges that any person falling within section 16 of the act can apply for a premises licence before the new proposed structures exists and the applicant is in a position to complete an operating schedule. The schedule will need to contain details of:

- the activities to take place there
- the time at which such activities will take place
- the proposed hours of operating
- where the applicant wishes the licence to have effect for a limited period, that period
- the steps taken to promote the licensing objectives
- where the sale of alcohol is involved, whether supplies are proposed for consumption on or off the premises (or both) and the name of the designated premises supervisor the applicant wishes to specify

#### 4.6 Provision of scale plans

Applicants are required to submit a current scale plan of the premises when making an application for a new premises licence and a scale plan of the proposed layout as part of any application for variation of the premises licence affecting approved layout arrangements.

Plans need not be professionally drawn but must be drawn to scale and include a scale bar. It is useful to include with the plans the size of the original drawing (for example 1:100 when printed at A4). Plans must be made available to members considering an application in a Licensing Sub-Committee.

Plans must be clear and legible in all material aspects, providing sufficient detail for this authority to determine the application. Applicants are asked to note that under this requirement, plans should detail not only the arrangement of internal areas of the premises but also any external areas intended to be used as part of the licence or for the purpose of consumption on or off the premises and late night refreshment.

This includes patio or garden areas, external public areas such as the street and any temporary structures such as marquees or smoking shelters. A sample plan can be found at [appendix J](#) of this policy.

#### 4.7 Entertainment of a sexual nature

The licensing authority along with the responsible authorities have concerns that the licensing objectives can be compromised by the operation of premises where nudity, or adult entertainment of a sexual nature is carried on. Applicants are required to state in their operating schedule that they propose to offer nudity, partial nudity or adult entertainment of a sexual nature.

When considering applications within this policy, the licensing authority will have particular regard to whether the premises are in the vicinity of the following:

- residential accommodation
- schools
- places of worship
- other premises where entertainment of a similar nature takes place
- community centres
- youth clubs
- any other premises in the vicinity as appear necessary to the licensing authority on the
- facts of each application

Where appropriate, the licensing authority will also take into account the cumulative effect of a number of such premises in the area in question.

Where such applications are made the applicants are required to state in their operating schedule that they propose to offer nudity, or adult entertainment of a sexual nature (currently Box N of the application form). The following matters may be necessary to promote the licensing objectives and applicants should consider whether any of the following measures are reasonably required:

- a demonstrable commitment to ensuring that there are no exploitative practices at the venue
- a code of conduct for patrons and performers, which may be developed in consultation with the police and the council
- including suitable proof of identify, age and (where required) permission to work
- the prevention of views into the premises
- the prohibition of exterior advertising of the adult entertainment of a sexual nature at the premises along with a prohibition of leafleting or touting for business
- the strict exclusion of persons under 18 from the premises when such activities are taking place

Applications for premises which provide music, dance and late night refreshment, that do not specify that there will be nudity, or adult entertainment of a sexual nature, services or other entertainment which may give rise to concern in respect of children in the relevant part of the application (currently Box N of the application form), will be asked to accept a 'no nudity and no adult entertainment of a sexual nature' condition.

#### 4.8 Temporary event notices (TENS)

The Act provides a system by way of 'temporary event notices' for the temporary carrying on of any licensable activity outside of the terms of a premises licence or club premises certificate.

Under this system, no authorisation as such is required from the licensing authority. Instead, a person wishing to hold an event at which activities are proposed to be carried on the premises user gives notice to the licensing authority of the event.

There are two types of TENS, a standard TEN and a late TEN. All TENS must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act, together with relevant fee, and must be copied to the Police and our authority's Environmental Protection Team.

A standard TEN must be given with at least 10 clear working days' notice before the event. A late TEN (intended to assist premises users in situations that are outside of their control) can be given no earlier than nine working days but still with a minimum of five clear working days' notice before the event.

'Working day' under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday Or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a 'day' as a period of 24 hours beginning at midnight. These stated timescales are not negotiable and no notice will be progressed unless all parties have been correctly notified.

The 10 and 5 clear working days' notice periods will be calculated exclusive of the day on which the event is to start and the day on which the notice is given (working days do not include the date the TEN is submitted, or the first day of the event itself). For instance, if a standard temporary event is intended for a Saturday or Sunday night, the notice must be given by the third Friday before the event date at the latest. If a bank holiday should fall within the period then an additional working day must be allowed for each bank holiday that occurs.

In general, only the Police (on crime and disorder grounds) or the Environmental Protection Team (on the grounds relevant to any of the licensing objectives) may intervene to prevent such an event taking place. However, this licensing authority will also intervene if the notice given is incorrect or if the limits set out in the Act that may be given are exceeded.

In a significant number of events it is anticipated that the minimum notice period will not provide sufficient time for proper consideration to be given to any concerns that may arise.

For this reason, while this authority will accept notifications given with only the statutory minimum notice, it is requested that you give us as much notice as reasonably practicable on an intention to stage a temporary event be provided, together with as much supporting information as possible, this may help to prevent objections being raised and help to support your request.

It should be recognised that many temporary events might have potential to give rise to concerns specifically relating to the licensing objectives. For this reason, it is advised applicants should make contact with the licensing authority, Environmental Protection team and the Police prior to submitting a notification to help alleviate any concerns and delays.

#### 4.9 Events in Luton

Our council welcomes and encourages cultural and community events in the borough and is aware of the Secretary of States' Guidance around the licensing of public land and buildings. Applications have been made and granted for premises for areas of council land.

Persons or organisations wishing to carry out an event that involves a licensable activity on council land may seek approval for permission to use the land and the premises licence currently in place. This can help to facilitate events that require a premises licence, working with the council to control the running of the event.

Your event may require you attending a Safety Advisory Group. This group is made up of a number of departments within our council who can advise you on a number of matters from, noise control, highways and safety. The Police, Fire and Ambulance services also attend and can advise you with their specialised expertise. You may be required to provide an operating schedule and risk assessment. Early application for events is advised to ensure that there is sufficient time for attendance at a Safety Advisory Group.

#### 4.10 Outside spaces

Outside spaces are an increasingly popular part of licensed premises, particularly in summer where there is more demand for outside drinking and eating options. There is a need for all outside spaces that are used for smoking and shisha (see below), eating and drinking by patrons of licensed premises to be well managed to reduce the potential for nuisance to be caused to nearby residents and other users of outside spaces.

Following the impact of Covid-19, we recognise that the hospitality sector will look very different and will be trading in a changed licensing landscape. Premises may be required to operate in a completely different way than pre lockdown and we recognise the use for outside spaces may become more prevalent for licensed premises. The licensing authority will carefully consider the need for the use of outside spaces and how to effectively manage new challenges and risks licensed premises may face.

Members of the public can sometimes feel intimidated when groups of patrons (whether smoking, drinking, eating or just chatting) spill out onto the street may cause obstruction. Safety problems can also be caused with drinkers moving into the road.

Wherever possible drinking should be contained within the areas that are part of licensed premises, such as beer gardens, terraces or, where a street trading licence has been granted by the council for tables and chairs, on the public highway, and consideration should be made for local residents with mobility difficulties.

Where smoking (including shisha smoking on licensed premises), eating and drinking takes place outside, our authority expects applicants to provide comprehensive details in their operating schedule on:

- the location of outside areas to be available for use
- how the outside areas will be managed to prevent:
  - a. noise
  - b. smell
  - c. pavement obstructions
  - d. littering
  - e. refuse
- the arrangements for clearing tables and chairs and
- preventing nuisance from smoke fumes to residents living in close proximity to smoking areas

Where outside spaces are used for eating, and where children may be present in the outside space, our authority expects applicants to provide details as to how smoking areas will be separated from the general use areas of the outside space.

Licensees must take into account the needs of patrons with disabilities and comply with the requirements of the Equalities Act 2010.

#### 4.11 Smoking areas and premises offering shisha

The council is committed to tackling wherever possible the negative health effects arising from direct and passive smoking.

Businesses with the leisure and hospitality sector, many of whom are licensed, must act reasonably, and comply with smoke free legislation in the course of their activities.

Both staff and patrons of such premises must be protected from exposure to tobacco, and other smoke, by good management. Children and young adults should be protected from such exposure and should be made aware of health risks associated with smoking.

Luton Council are the responsible enforcing authority for the Health and Safety at Work etc. Act 1974, as well as the Health Act 2006 and the Licensing Act 2003.

Under the Smoke free (Premises and Enforcement) Regulations 2006 nearly all public places and work places that are 'enclosed' or 'substantially enclosed' must be smoke free from 1 July 2007.

Premises will be considered to be enclosed if they have a ceiling or roof and, except for doors, windows or passageways, are wholly enclosed, whether on a permanent or temporary basis.

Where an area has no roof or ceiling, smoking can normally be permitted as there should be no obstruction to the ready escape of smoke contaminants. Please note however that blocking open sided structures with curtains, drapes, plants or high backed seating, can help prevent the free flow of air, and will be taken into account in any calculation to estimate the level of permanent ventilation provided.

The selling and the use of shisha tobacco products is controlled by a wide range of legislation in the UK. It is the responsibility of all producers or importers of shisha tobacco products to make sure that:

1. they are correctly batch code marked
2. contain a list of ingredients
3. excise duty has been paid
4. packets of shisha carry on a 30% of the most visible surface (the front) one of the following two statements:
  - 'smoking kills' or
  - 'smoking seriously harms you and others around you'

In addition to one of these two statements, one of the 14 picture warnings (contained in the amended regulations of 2007) must be given on the other most visible surface.

When shisha is supplied to customers, usually in a bowl of a shisha pipe, this becomes a packet and is required to be labelled. The requirement can be met by providing a notice to the consumer at the time of the supply of the Shisha giving the appropriate warnings. Alternatively, the shisha and hookah pipes and/or bottles must be labelled with these warnings.

Businesses who fail to comply with the above labelling requirements could have the shisha products seized by trading standards or customs officers and be prosecuted in the court. Shisha operations that are part of licensed premises may find that their premises licence is reviewed.

#### 4.12 Business and Planning Act 2020

As a result of the Covid 19 Pandemic parliament introduced the Business and Planning Act 2020 which includes provision for a regime of pavement licences. A pavement licence is a new type of licence for operators of businesses selling food and drink from and/or for their customers to use.

From 22 July 2020 the Business and Planning Act 2020 has temporarily modified the Licensing Act 2003 in order to provide an automatic extension to the terms of most premises licences which only permit the sale of alcohol for consumption on the premises to allow for the sale of alcohol for consumption off the premises. The new off sales permission permits off sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the closure time of an existing outside area, whichever is earlier.

Existing licence conditions are suspended in so far as they are inconsistent with the new off sales permission. Further provisions also temporarily modify conditions on existing dual premises licences (those which permit both on sales and off sales of alcohol) where they prevent one or more of the following:

1. off sales being made at a time when the premises are open for the purposes of selling alcohol for consumption on the premises (subject to a cut off time of 11pm or the closure time of an existing outdoor area, whichever is earlier)

2. off sales being sold in an open container
3. Deliveries to buildings used for residential or work purposes

The following premises are not affected:

1. premises licensed after 22 July 2020
2. premises licensed for off sales only, such as shops and supermarkets
3. private members' clubs who hold a club premises certificate
4. the permission or suspension of relevant conditions attached to the premises licence are temporary

The permission will be in accordance with the act unless the temporary period is extended by regulations made by the Secretary of State or is otherwise suspended, removed or varied. You are not required to change either your licence or your premises licence summary to show that you are taking advantage of the new permissions, however you must prepare a statement (known as a Section 172F statement) that that is the case.

Luton Council will in due course amend this section to consider legislative changes which envisage the adoption of pavement licensing and the off sales easement.

#### Tables and Chairs on the Highway (temporary section pending pavement licence update)

Applications for the use of licensing of tables and chairs on the highway are not within the remit of this policy, and you should refer to the temporary furniture policy where appropriate. In the event that the hours under any such licence do not match those on a licence issued under the Licensing Act 2003 the earlier hours will apply.

The council has published a separate policy in relation to the placing of table and chairs on the highway, a copy of this policy can be found on our website [www.luton.gov.uk](http://www.luton.gov.uk)

#### 4.13 Consultation arrangements

This licensing authority considers it important that the local community is fully aware of local licensing applications being made within its area. Regulations governing the advertising of applications for the grant, variation or review of the premises licence and club premises certificates require a public notice to be published in the local press and a summary of the application to be displayed immediately on or outside the premises concerned. Failure to comply with the requirements in full will result in the application being void in accordance with section 17 of the act.

The Licensing Service will endeavour to notify neighbouring residents and business (known under the Licensing Act 2003 as 'other persons') of your application by letter. The Licensing Act 2003 does not define 'vicinity' in which the notification should be sent. Residents and businesses that fall within a general radius of 100 metres drawn from the premises will receive notification of your application. The licensing officer will consider whether the extent of the circle should be extended. This will depend on the character of the area, type of licence and size of premises.

The Licensing Service supports the consultation process by maintaining a public register on our website <http://www.luton.gov.uk/licensing>. The register contains details of all current applications (alongside detail of current licensed premises). It is open to any person who wishes to be kept up to date with latest applications in their area.

#### 4.14 Responsible authorities

Contact details are given in [appendix L](#). The responsible authorities must be notified of, and are entitled to lodge representations about, applications for premises licences or club premises certificates. Responsible authorities will also provide advice and information on established best management practice.

Information on preparing operating schedules are contained within this policy, for more complex applications such as those that may include a variety of differing licensable provisions with differing operational times within the same premises, applicants may wish to also consult with the authorities directly with a draft operating schedule prior to submission of the application.

This authority advises that it recognises our council's Children's Social Services as the body competent to provide advice on matters concerning the protection of children from harm.

It should also be noted that the Director of Public Health is added as a responsible authority and whilst health is not included as a licensing objective. The act and guidance recognises that public health experts play a significant role in determining the health and wellbeing of those living within the vicinity of licensed premises. It is further noted that health bodies may hold information, which other responsible authorities do not, but which would assist a licensing authority in exercising its functions.

This authority strongly recommends that applicants contact responsible authorities prior to making an application in order to mitigate any arising issues from the proposed application and/or licence.

#### 4.15 The licensing authority acting as a responsible authority

The licensing authority is included within the list of responsible authorities. This role will be undertaken within our council's Licensing Service. This authority will determine when it considers it appropriate to act in its capacity as a responsible authority in accordance with its duties under Section 4 of the Act.

Where it is decided to act within the responsible authority role, a separation of duties will be maintained to ensure procedural fairness and eliminate conflicts of interest.

#### 4.16 Representations

The licensing authority can receive a written representation to an application during a prescribed period. This is usually 28 days from the date the licensing authority receives the application but varies depending on the type of application under consideration.

It is open to any responsible authority as defined under the act or other persons to make representations concerning a premises licence or club premises certificate application during the consultation period.

A representation will only be relevant if it relates to the likely effect of the grant of the licence on the promotion of at least one or more of the licensing objectives. A representation that fails to do this is not relevant for the purpose of the Act and cannot be considered as a valid representation.

In borderline cases, the benefit of doubt will be given. The subsequent hearing will provide an opportunity for the person or body making the representation to amplify or clarify it. Relevant representations can include positive and supportive representations as well as objections to an application.

It is for the licensing authority to determine on its own merits whether any representation by a person or body is frivolous or vexatious on the basis of what might ordinarily be considered frivolous or vexatious.

Representations must be received in writing at the licensing service office by the last date of representations. Representations must be signed, dated, provide the grounds of the representation in full and include the name and address of the person / body making the representation.

For guidance on submitting representations see [appendix M](#) of this policy.

#### 4.17 Petitions

Petitions received will be treated as one representation from the person sending it in, supported by other signatories. Petitions will not be treated as individual representations from everyone who has signed it. Each page of the signatures must have the premises details and the reasons for submitting the representation and the licensing objectives the representation relates to as per the guidance at [Appendix M](#) of this policy.

The council sets out guidelines for submitting a petition, you can view the requirements by viewing our [Petitions Scheme](#) or (search 'petitions scheme' on the Luton Council website).

#### 4.18 Disclosure of personal details of persons making representations

Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.

We do not withhold personal details save in genuinely exceptional circumstances where there is a well-founded fear of intimidation. The licensing authority do not to accept anonymous representations.

If a party does not wish for their personal details to be given, they may consider asking another party such as their ward councillor or Local Residents Association to make a representations on their behalf.

A full overview of our authority's privacy notice for making representations can be found on the website [www.luton.gov.uk](http://www.luton.gov.uk)

#### 4.19 Determination of applications

If no relevant representations are received then the authorisation will be issued automatically with, in the case of the premises licence or club premises certificate, such conditions attached as are mandatory or consistent with the operating schedule accompanying the application. The licensing authority will have no discretion to refuse the application or to alter an application once the statutory consultation period has passed and the licence has been granted.

Where relevant representations are made, the licensing authority must hold a hearing before the Licensing Committee or, more usually, a Sub Committee of the Licensing Committee who will take such of the following steps as it considers appropriate for the promotion of the licensing objectives.

The steps are:

- a. to grant the licence subject to the operating schedule modified to such extent as the subcommittee considered necessary for the promotion of the licensing objectives and subject to relevant mandatory conditions
- b. to exclude from the scope of the licence any of the licensable activities to which the application relates
- c. to refuse to specify a person in the licence as the premises supervisor
- d. to add appropriate conditions onto the licence
- e. to reject whole or part of the application

The licensing authority aims to conduct hearings in a manner that is:

- a. fair
- b. open, transparent and accountable
- c. designed to treat everyone equally, whatever their status.

In particular, hearings will be conducted to ensure that no one is disadvantaged by being unrepresented.

Details of what can be expected at a licensing hearing and the scheme of delegations can be found at [appendix N](#) of this policy.

#### 4.20 Licence reviews

Under the Licensing Act 2003, reviews are a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a licence and/or certificate.

Both interested parties and responsible authorities 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. The licensing authorities role in this regard is to administrate the process and determine its outcome at a hearing.

Responsible authorities will aim to give licensees early warning of any concerns identified at the premises wherever possible. It is recognised that circumstances may arise where early warnings are not warranted and a review application ought to be made.

The person requesting the review must submit the application to the licensing authority and to the premises they are requesting the review for.

The licensing authority must advertise the request for the review by posting notices:

- at the premises
- at the licensing authorities offices
- on the website

During the following 28 days, the licence holder, a responsible authority of an interested party may make representations to the licensing authority regarding the review.

The licensing authority must hold a hearing to determine what action or combination of actions should be taken the possible actions are:

- do nothing
- issue a warning
- modify conditions
- exclude a licensable activity
- remove the designated premises supervisor
- suspend the licence for up to 3 months
- revoke the licence

If the review application is rejected it may issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.

In cases when the licensing objectives are seriously undermined, it is expected that the licence will be revoked. The licensing authority encourages responsible authorities to work with the premises licence holders, utilising action plans to resolve issues at the premises.

The review hearing will be set, and responsible authorities will be encouraged to propose a package of relevant new conditions to be added to the premises licence/ club premises certificate.

**The new conditions are only to be added to combat the identified problem, the responsible authorities must not use this opportunity to add any conditions to the premises other than those to rectify the problem.**

The conditions must be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:

- removal of the DPS and their replacement (the manager is removed)
- suspension of the licence for between 1 day and 3 months according to the circumstances
- restriction on trading hours – cutting hours of trading in alcohol
- clear warning that a further appearance will give rise to a presumption of revocation

Any action or actions taken will be publicised including in the local area to make residents and business aware of the actions taken.

In the absence of improvement or where further concerns arise, responsible authorities should seek another review. If the panel are satisfied that there has been a lack of improvement of there has been further concerns at the premises, the panel will give serious consideration to revoke the licence.

#### 4.21 Expedited reviews

Only the Police can apply for an expedited review, and can only do so if the premises has been involved with or associated in serious crime and/or serious disorder.

Once an expedited review application has been received, an interim steps hearing will be arranged within 24 hours of the application being received, for the licensing sub-committee to decide if any steps need to be taken during the consultation period. They can choose to:

- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor – if the panel consider that the problems are the result of poor management
- suspend the licence for a period not exceeding three months
- revoke the licence

If the applicant accepts the decision of the interim steps imposed by the panel the licensing authority will display notices within the vicinity of the premises informing residents of the application submitted and inform them how to submit a representation should they choose to. A full licensing hearing will then be heard to decide the final outcome of the licence/certificate.

If the applicant submits a representation against the decision of the interim steps imposed by the licensing sub-committee, a second interim steps panel must be heard within 24 hours for them to outline their representation. The sub-committee can keep to their initial decision or change it depending on the representation submitted.

#### 4.22 Applications for transfer of a premises licence following applications for review

This authority is concerned over the frequently observed practice of an application for a transfer of a premises licence being made following an application for a review of that same licence being lodged.

Where such applications are made, this authority will require documented proof of transfer of business and/or lawful occupancy of the premises (such as a lease), to a new proposed licence holder to support the contention that the business is now under new management control.

#### 4.23 Annual fee payments

An annual maintenance fee is payable in respect of all premises licences and club premises certificates. If the annual fee is not paid when it is due, our authority must suspend the licence or certificate.

In such cases, the holder of the licence will be notified in writing. Once suspended, the licensable activity authorised by that licence must cease. The police will be informed and monitoring checks will be made to ensure that no licensable activity continues whilst that premises is suspended.

The suspension ends upon payment of the fee. Licence holders should ensure that the payment of the outstanding fee is brought to the attention of the Licensing Service in order that the suspension may be lifted.

It is not the responsibility of the licensing authority to remind the premises licence holder when an annual fee is due however, the authority will send annual fee invoices to each licensed premises within the borough as a matter of courtesy but the responsibility of maintaining the licence by paying the fee remains solely with the premises licence holder.

#### 4.24 Planning, regeneration and building regulation regimes

The planning, regeneration, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Each regime involves consideration of different (albeit related) matters. Neither licensing nor planning committees are bound by decisions made by the other.

However, this authority will look to ensure proper integration with the planning regime. While it is understood there is no legal basis for a licensing authority to refuse a licence application solely because it does not have planning permission, to allow clarity and consistency both for applicants and in response of enforcement action.

It is strongly recommended that applications for premises licence for permanent commercial premises should normally be from businesses with relevant planning consent for the property concerned. This applies equally to applications seeking a licence intended to facilitate a change of use or type of operation.

Where this is not the case, the council may expect the applicant to address the reasons why planning permission has not firstly been sought and / or granted and provide reasons as to why licensing consent should be.

This authority notes that guidance supports 'where businesses have indicated, when applying for a licence under the act, that they have also applied for planning permission or that they intend to do so.' The licensing sub-committee and officers may consider undertaking a discussion with their planning counterparts prior to the determination with the aim of agreeing mutually acceptable operation hours and scheme designs.

There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. It must be emphasised that where these hours are different to permitted licensing hours, the applicant must observe the earlier closing time.

Premises operating in breach of their planning permission would be liable to prosecution under planning law. This is emphasised by the decision in the case of *Gold Kebab v Secretary of State for Communities and Local Government 2015*.

Further information on planning is available on the council website:

<https://m.luton.gov.uk/Page/Show/environment/planning/Pages/default.aspx>

## 4.25 Land owners consent

Where licences are granted or temporary event notice are submitted for licensable activities to persons who do not own the premises or land where licensable activity is to take place. This authorisation does not authorise the use of the premises without the prior consent of the land owner and does not allow the operator to breach any covenants or restrictions on the titles or leases for the use of the land or premises.

With regards to public or council own premises or land there is no implied permission to use the premises or land with the issue of a premises licence without obtaining separate consent from the appropriate council department, such as Highways, the Housing Department or Parks, who is effectively the land owner to use the land.

## 4.26 Guidance documents

Applicants should have regard to this statement of licensing policy when making an application for a premises licence, club premises certificate or temporary event notice. It is important that applicants also have regard to the government guidance issued under Section 182 of the Licensing Act 2003.

# 5. Enforcement

## 5.1 Licensing authority enforcement powers

The licensing authority will employ officers and authorise them to carry out functions under the Licensing Act 2003 and will use a full range of enforcement actions, including the use of statutory powers where necessary.

Other authorities may use licensing enforcement powers where there is evidence to suggest that the licensing objectives are being undermined, enforcement action will be taken in accordance with the principles of better regulation and the regulators compliance code. A more informal approach may be used in less serious cases and partnership working is promoted in order to prevent problems arising.

The council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the council will undertake its role and how the principles of effective enforcement will be achieved.

This policy is freely available from the licensing section, as are details of the corporate complaints procedures, both of which can also be viewed on our council's website: <http://www.luton.gov.uk>

The licensing authority monitors compliance with the licensing objectives and the conditions attached to premises licences through a programme of inspection visits. Proactive visits are made to those premises where concerns have been raised relating to the licensing objectives.

## 5.2 Enforcement approach

The licensing authority prefers to operate a targeted approach to enforcement, where compliant and well regulated licenced premises are not generally a focus for enforcement. Licenced premises which do not meet this standard will be supported to become compliant, well regulated business. Where such support is not possible or unsuccessful, licensed premises will be the subject of appropriate and proportionate enforcement measures.

Where possible and appropriate, our authority will aim to give licence holders early warning of any concerns about problems identified at any licensed premises and identify the need for improvement. Repeated or cumulative breaches of licences will lead to a review of the licence

where the full history of the venue will be examined. This would not preclude the taking of other enforcement action in appropriate cases.

This enforcement approach will guide Luton enforcement agencies and partners in all cases of regulating the licensed trade.

In respect of the sale of age restricted goods and products services it is considered necessary for regular, random and unannounced test purchasing exercises to ensure all licensed premises are compliant.

It is considered that the importance of age restricted restrictions in practices is significant enough to justify regular monitoring of all licensed premises and promote the protection of children from harm.

An intelligence led approach will be adopted and information regarding incidents of violent crime, disorder and nuisance in and around licensed premises will be collated to provide a risk based approach for inspection and, where appropriate, surveillance.

It should be noted however, that regular scheduled and ad hoc visits to licensed premises will continue to be undertaken by officers from our council's licensing team as part of its generally administrative and regulatory approach. On occasion they will be accompanied by colleagues from other council departments and/or the Police.

Where enforcement action is considered the licensing authority will have regard to the statutory principles of good regulation, the Regulators' Code and its own existing Enforcement strategies.

The following needs to be re-considered to follow the statutory principles:

1. transparency
2. accountability
3. proportionality
4. consistency
5. targeted where needed

**Targeting:** for example, focussing on activities that give rise to the most serious risks or where hazards are least well controlled **or** the licensing authority expects that enforcement activities will focus on concerns and activities that give rise to the most serious risks such as:

- protecting the public and local residents from crime, antisocial behaviour and noise nuisance caused by irresponsible licensed premises
- giving the police and licensing authorities the powers they need to effectively manage and police licensed premises and take action against those premises that are causing problems
- recognising the important role which licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises
- providing the regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their area
- encouraging great community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them

Luton Councils' Trading Standards team operate a policy of carry out test purchasing for under age alcohol sales. If sales are made to children, action will be taken. This action may include an application for the review of the premises licence.

On review the full range of options will be considered by the licensing authority including, in serious cases, the revocation of the premises licence. Other circumstances may result in the amendment or addition of conditions.

The licensing authority places considerable weight on all child protection matters including underage sales of alcohol and other age restricted products. Each case will be considered on its own merits.

The licensing authority may, as a responsible authority apply for reviews of premises licence where appropriate. If deficiencies in operating schedules of current licences become apparent our authority will initially ask the licence holder to remedy this by way of an application for minor variation. If this is not done, a review may be necessary to impose the conditions on the licence.

This process does not preclude prosecutions for offences under the Act. Further details on the test purchasing policy can be found at [appendix E](#) of this policy.

## 6. Partnership working

### 6.1 Partnership with responsible authorities and enforcement agencies

Our authority is committed to working collaboratively with the responsible authorities and enforcement agencies within Luton and more widely as appropriate.

In particular this will include:

- Joint enforcement approaches: Our authority has established protocols with the responsible authorities on enforcement issues to avoid duplication and to provide efficient deployment of authority and relevant officers across the authorities in respect of the inspection of licensed premises and the enforcement of licensing law.
- Contact is also maintained with the Security Industry Authority (SIA) in relation to checks on door supervisors. Multi agency announced and unaccounted inspections may be undertaken as well as regular visits by officers from the council's Licensing Service.
- Joint approach to representations: Our Authority will communicate with the responsible authorities to ensure that a partnership approach is taken in consideration of applications and any representation that may be made to them.
- Information Sharing: Luton is committed to open data principals. Subject to the provisions of the Data Protection Act 2018 and the General Data Protection Regulation 2016 and any other applicable legislation, our authority will share information about licensees, licensed premises and activities associated with them to all partners. Operating schedules, results of compliance checks, and details of enforcement action may also be shared.

### 6.2 Partnership working with licensees, trade and residents

The promotion of the licensing objectives and achieving common aims relies on a partnership between licence holders, authorised persons, other persons, responsible authorities and our authority. Our authority is keen to work in partnership with licensees and with bodies such as licensee forums, Luton Safe, pub watch, BIDs, tenant and residents groups and those representing such groups to develop a prosperous and well managed economy whilst promoting the licensing objectives.

By working closely with the trade and residents' groups the authority aims to develop a preventative or early intervention approach to problems that may arise. To do this the authority will:

- be accessible to these groups
- regularly consider and/or canvas the views of Luton's business and resident's groups

## 7. Integration with other statutes

### 7.1 The Equality Act 2010

This act legally protects people from discrimination in the workplace and wider society. This includes the Public Sector Equality Duty (PSED), which means the council must thoroughly consider, in the discharge of its licensing functions, the need to:

- promote equality of opportunity
- eliminate unlawful discrimination, harassment and victimisation
- promote good relations

This applies for this policy and to the consideration and determination of applications received under the Licensing Act 2003.

Licensing committee members have undertaken equality and diversity training and will be reviewing their learning on a regular basis to ensure their knowledge and understanding of all matters concerning equality and diversity are at the highest standard to allow them to make decisions.

The licensing authority will have due regard to the Public Sector Equality Duty in the exercise of all functions under the Licensing Act 2003.

### 7.2 Human Rights Act 1998

This policy incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way which is incompatible with a convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- article 1 of the first protocol: everyone is entitled to the peaceful enjoyment of their possessions - it should be noted that the courts have held that a licence is a person's possession
- article 6, in relation to the determination of civil rights and obligations: everyone is entitled to a fair and public hearing within a reasonable time, by an independent and impartial tribunal established by law
- article 8: everyone has the right to respect for one's home and private life, including for example the right to a 'good night's sleep'
- article 10: freedom of expression

### 7.3 Crime and Disorder Act 1998

Under this Act, local authorities must have regard to the likely effect of the exercise of their functions, and do all that they can to prevent crime and disorder in their area. This policy will have regard to the likely impact that the granting of licences may have on related crime and disorder in the borough.

Section 17 of the Legislation is highlighted below, we would expect applicants to take this into full consideration:

1. Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent:

- crime and disorder in its area (including antisocial and other behaviour adversely affecting the local environment)
- the misuse of drugs, alcohol and other substances in its area
- re-offending in its area
- serious violence in its area

1a. the duty imposed on an authority by subsection 1 to do all it reasonably can to prevent serious violence in its area is a duty on the authority to do all it reasonably can to:

- prevent people from becoming involved in serious violence in its area
- reduce instances of serious violence in its area

2. This section applies to each of the following:

- a number of Authorities including the council

3. In this section:

- 'local authority' means a local authority within the meaning given by section 270 1 of the Local Government Act 1972 or the Common Council of the City of London
- 'joint authority' has the same meaning as in the Local Government Act 1985

You can view the full content of the Act by clicking:

<https://www.legislation.gov.uk/ukpga/1998/37/section/17>

## 7.4 Immigration Act 2016

The UK Government has changed the law regarding Licensing Act 2003 applications as of the 06th April 2017 therefore this means you will need to provide proof of your right to work in the UK at the time of the application.

The provisions apply to premises licences for alcohol and late night refreshment, (but not entertainment only licences) and personal licences. Other types of authorisation under the 2003 Act (club premises certificate and temporary event notices (TEN)) are not covered. This is because there is little evidence of immigration abuse in respect of premises authorised under club premises certificates, and it would have been disproportionate to apply the requirements to TENs.

For further information regarding this requirement, please refer to [appendix O](#) of this policy.

## 7.5 Martyn's Law

The Government is proposing to introduce a new law in spring 2023 known as Martyn's Law. The aim of the legislation is to ensure stronger protections against terrorism in public places.

The key aspects of the new legislation are as follows:

- new laws to keep people safe will scale up preparedness for, and protection from, terrorist attacks
- Martyn's law will ensure better protection against the continued and evolving threat that the UK faces from terrorism
- support, guidance and training will help embed best practice and drive up standards across the UK

Martyn's Law will follow a tiered model linked to activity that takes place at a location and its capacity aimed to prevent undue burden on businesses.

- A standard tier will apply to locations with a maximum capacity of over 100 which can undertake low cost, simple yet effective activities to improve preparedness. This will include training, information sharing and completion of preparedness plan to embedded practices,

such as locking doors to delay attacker's progress or knowledge on lifesaving treatments that can be administered by staff whilst awaiting emergency services.

- An enhanced tier will focus on high capacity locations in recognition of the potential consequences of a successful attack. Locations with a capacity of over 800 people at any time, will additionally be required to undertake a risk assessment to inform the development and implementation of a thorough security plan. Subsequent measures could include developing a vigilance and security culture, implementation of physical measures like CCTV or new systems and processes to enable better consideration of security.

The government will establish an inspection and enforcement regime, promoting compliance and positive cultural change and issuing credible and fair sanctions for serious breaches.

Dedicated statutory guidance and bespoke support will be provided by the Government to ensure those in scope can effectively discharge their responsibilities, with even small venues also able to benefit from this and take voluntary action. Expert advice, training and guidance is also already available on the online protective security hub, ProtectUK.

Martyn's Law will extend to and apply across the whole of the United Kingdom and the Government will publish draft legislation in the early spring to ensure the law stands the test of time.

The council expects all licensed premises and new applicant's to take into account Martyn's Law when it is published. The council will publish guidance on the website regarding our approach when it becomes legislation.

## 8. Luton specific considerations

Our authority expects all applicants have a clear understanding of the locality in which they are operating or intending to operate and that this has been taken into account in the application, any voluntary conditions proposed and for these to be set out clearly within the operating schedule.

Applicants should be able to demonstrate within their application that they have taken into account the council's broader aspirations, particularly in relation to an offer that provides for the diverse Luton population.

The authority would expect applicant give specific regard to the following highlighted policies. However, it should be noted these policies are not exhaustive.

### 8.1 Local Plan and Town Centre Framework

The planning inspectorate supports the government's aim for every area in England to have an adopted local plan. A local plan sets out local planning policies and identifies how land is used, determining what will be built where. Adopted local plans provide the framework for development across England.

Local people's views are vital in shaping a local plan, helping determine how their community develops. Development should be consistent with the national place policy framework.

For full details in relation to Luton's Local Plan and Town Centre Framework, please see: [www.luton.gov.uk/localplan](http://www.luton.gov.uk/localplan)

### 8.2 Public Space Protection Orders (PSPO's)

Whilst the government's national strategy employed initially by the Rough Sleepers Unit and now the Homelessness Directorate has succeeding in reducing the number of people sleeping rough it has not impacted sufficiently on associated street activity.

Street activity includes those who have been or who are still accommodated, returning to the streets to street drink. The consequence of this activity is that it causes distress to residents, visitors and the business community.

It is particularly difficult for members of the public to distinguish between street drinkers and rough sleepers because the two groups tend to form an alliance that is not a help to either group.

It sometimes prevents rough sleeping accepting offers of an accommodation because they prefer to stay in their 'friendship groups'. It is acknowledged that street drinking draws people back to life on the streets and can lead to accommodation being abandoned.

For this reason, the council has introduced a Public Space Protection Order (PSPO), which came into effect on 5 July 2018. The PSPO sets out that the consumption of alcohol in public place have had or are likely to have a detrimental effect on the quality of life of those in the locality described within the restricted area or is likely that such activities will be carried out within that area and have such an effect.

Applicants wishing to apply for a licence in the PSPO area or in close proximity to the PSPO will need to demonstrate within their application how the effects of the licence will not have an adverse effect on the PSPO.

Full details of the order can be found on our website by clicking the attached link:

[www.luton.gov.uk/pspo](http://www.luton.gov.uk/pspo)

### 8.3 Luton Community Safety Partnership Plan

The Community Safety Partnership (CSP) is a statutory partnership which is made up of the local responsible authorities. Its role is to develop and oversee a local strategy to tackle and reduce crime and community safety issues across the Town.

The CSP Plan sets out the key priorities areas of work that are causing the most harm and of most concern to the residents, businesses and visitors of Luton. The plan, alongside associated strategies can be found at [www.luton.gov.uk/communitysafety](http://www.luton.gov.uk/communitysafety).

The partnership is currently addressing longstanding issues where there is a clear link between alcohol and criminality. These issues include violence, domestic abuse, antisocial behaviour including street drinking and public disorder. These issues can be and are fuelled in part by alcohol.

The partnership supports the safe and responsible sale and supply of alcohol which meet the licensing objectives. License holders and applicants should demonstrate that they are fully committed to contributing positively to the work to improve community safety in Luton. Not only at the application stages but throughout the duration of their licensable activities.

### 8.4 Public Health Food Plan

The Luton Food Plan is an ambitious four year initiative from the council's Public Health team and partners. The objective of which is to increase public recognition of the importance of a balanced diet made up of good quality food, so as to improve residents' health and wellbeing, our food sustainability and our economy.

Those applicants wishing to apply for licences at food outlets must consider the local food plan as part of their submission. Failure to address issues around health and wellbeing may result in representations being submitted against the application. Full details of the initiative can be found on our website: [Luton Food Plan](#) (search 'Luton food plan' on the Luton Council website).

## 8.5 Knife crime measures, drugs and drugs paraphernalia and the illegal supply of medications

This explains about the deterrence of knife crime measures, drugs paraphernalia and psychoactive substances and illegal supply of 'prescription only' and 'over the counter' medications.

Luton in common with other many towns and cities nationwide is experiencing a disturbing degree of knife crime and it is important that this licensing policy recognises this and sets out proportionate measures to deter the carrying of knives into licensed premises in Luton.

The licensing authority must carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives, which of course include public safety and the prevention of crime and disorder.

This authority has considered how best this duty can be carried out in the context of current risks to the public arising from the carrying of knives and has decided that to introduce measures to prevent knife crime in licensed premises.

The licensing authority would expect all applications for licences and certificates authorising the sale or supply of alcohol to consider when preparing their operating schedule the steps which the applicant intends to prevent, so far as reasonably practicable, customers on their premises becoming at risk of knife crime and to deter customers from carrying out acts of knife crime.

These steps may be either in the form of specific suggested conditions to be attached to the premises licence and certificate if granted or a condition committing the applicant to have in place during the currency of the licence and certificate a documented risk assessment, which specifically addresses the risks of knife crime on the premises which is kept under regular review.

The following list may be of assistance to applicants when considering their application:

- the customer profile and likelihood of persons being attracted to the premises also being persons who are prepared to carry bladed articles
- what steps are reasonably practicable to implement at the premises which will be effective in deterring the carrying of a bladed articles into the premises in the first instances such steps may include screening persons wishing to enter the premises by the installation of walk through metal detecting portals or the use of hand held metal detecting devices and/or through rub down searching of persons wishing enter the premises by properly trained staff
- what steps are required to check that all metal detecting devices in use at the premises are fully operational and are regularly maintained and replaced as appropriate and what contingencies are required in the event of any such device developing malfunction
- the documenting of training of all staff engaged in using any metal detecting devices
- the documenting of training of all staff engaged in carrying out searches of customers
- the training of staff to know what procedure to follow in the event of an incident of knife crime on the premises and to ensure that is a first aider, with specific knowledge of giving first aid to a stabbing victim, on the premises whenever licensable activities are taking place
- the facilities of safe storage of any bladed article found secreted on the premises and the procedure to be followed in promptly notifying Bedfordshire Police
- the procedure to be followed in the event that any customer is found in the possession of a bladed article on the premises
- effective waste management including the prompt removal and safe storage of empty bottles

The above matters are not intended to be exhaustive, applicants are expected to demonstrate that they have thought very carefully about the risk of knife crime occurring on their premises and the appropriate procedures needed to minimise or mitigate the risk.

Applicants are strongly recommended to work closely with Bedfordshire Police, the licensing authority and responsible authorities before submitting their application.

When carrying out the required risk assessment applicants are encouraged to take full cognisance of local crime patterns and trends with particular reference to the profile of victims, offenders, key locations and key times of knife related incidents. Bedfordshire Police can assist the applicant in this regard.

As far as those premises are concerned which are currently licenced to sell/supply alcohol, the licensing authority expects them to have the same degree of consideration as to the risks of knife crime as new applicants.

The licensing authority would encourage all existing premises licence holders to note the contents within this policy and also consider steps they intend to take to prevent, so far as reasonably practicable, customers on their premises becoming at risk of knife crime and to deter customers from carrying out acts of knife crime.

Enforcement visits have identified an increasing number of premises that keep available behind the counter for immediate use, implements intended to inflict serious or fatal injuries if used.

The licensing authority considers this to be totally unacceptable. Whilst the premises licence holder may claim they are there solely for self-defence, the licensing authority does not condone this and believes it undermines the licensing objectives and puts the Public's safety at risk.

Accordingly, where officers identify such implements, this may be grounds for instigating a review of the Premises Licence."

As with knife crime, Luton, as many other towns and cities nationwide, also has a serious and worrying problem with drugs related crime and the associated consequences that arise from their consumption.

In order to reduce crime and disorder and public nuisance, to promote public safety and to protect children from harm, if illegal drugs are found on and/or supplied from licensed premises, in addition to any action taken by the police or other enforcement agencies, The licensing authority will take strong and immediate action.

This includes goods that contravene The Psychoactive Substances Act 2016 or any similar or amended legislation. These goods include, but are not limited to, nitrous oxide canisters and similar associated goods.

There will be a presumption their supply will be for their psychoactive effects. However, where the intended purposes of these items are disputed, the premises licence holder will be required to demonstrate to the satisfaction of the licensing authority that the items were for legitimate supply and not for their psychoactive effect.

In promoting the licensing objectives and reducing the consumption of illegal drugs, the licensing authority expects licensed premises to not stock or supply 'drugs paraphernalia' (in its widest form). Such paraphernalia includes, but is not limited to:

- grinders
- drugs bags
- low capacity (such as 100 gram capacity)
- electronic digital scales

- bongos

Failure to do so may lead to an application being submitted to review the premises licence.

Officers have noted an increase in the illegal offering for supply of medications from licensed premises that are 'prescription only' (only to be prescribed by a qualified health professional) and or medications requiring a health professional such as a Pharmacist, supervising the sale, (commonly referred to as 'Over the Counter medications' or 'OTCs'). In the absence of qualified professionals this is illegal and puts the Public's Safety at risk, and may also be a ground for an application being submitted to review the Premises Licence.

#### Knife crime and other implements used to inflict bodily harm

Trading Standards have been concerned by the increasing number of implements kept and found on licensed premises when carrying out enforcement visits. When questioned, staff say it is for 'their protection'.

Items have included baseball bats and even a substantial meat cleaver. Rather than reducing crime, as with the carrying of knives, this is likely to increase violent crime and put innocent members of the public's safety at risk as well as increasing the fear of crime. It is therefore suggested an extra paragraph be inserted or paragraph 8.5 be amended to read:

#### Illicit goods

Trading Standards have instigated a number of reviews that originate from licensed premises selling illicit goods such as alcohol and tobacco. The goods are often duty evaded, resulting in them being sold cheaply, thereby undermining health strategies and in the case of cheap super strength beers, making the task of controlling street drinking and alcoholism all the more difficult to address.

At the same time this creates an unfair commercial advantage over legitimate competitors who then become tempted to follow suit and break the law. The problem is widespread in Luton and continues despite this enforcement action. Trading Standards would therefore like the issue of illicit goods to be referred to in the Statement of Licensing Policy. Suggested wording is as follows:

#### Sale of illicit goods

The licensing authority is extremely concerned about the rise in the availability of illicit alcohol and tobacco in the borough.

Retailers of alcohol (both for consumption on or off the premises) are required by law to purchase such products **only** from wholesalers registered by Her Majesty's Revenue and Customs (HMRC) under their Alcohol Wholesalers Registration Scheme (AWRS).

The wholesaler's unique reference number (URN) must be displayed on their invoices and retailers must be able to demonstrate who supplied them with the alcohol, which in practice means being able to produce the wholesaler's invoice. Buying alcohol from itinerant traders and without legitimate documentation is illegal.

Whether non duty (where the product is genuine but the appropriate tax has not been paid), or counterfeit (where a fake product is made to look genuine), it is the opinion of the licensing authority that the selling of any illicit goods is a deliberate criminal act and shows evidence of poor management and disregard for the licensing objectives.

The Trading Standards Service is responsible for tackling the illegal sale of illicit goods in the borough and regularly inspects licensed premises.

Where illicit goods are found, the products will be seized and the offender(s) may be prosecuted.

Trading Standards are also very likely to submit an application to 'Review the Premises Licence' where illicit goods are discovered.

## 8.6 Alcohol delivery sales

The Licensing Service receive a number of queries each year in relation to applications for premises licences relating to delivery services. These tend to fall into below categories:

- premium specialist product (often internet based mail order services)
- food and convenience led delivery services (both meal and grocery) that may include alcohol and delivery but are primarily food lead
- alcohol delivery services
- late night food and drink delivery

The licensing authority will expect operators to implement, and be able to demonstrate, age verification at both the point of sale and delivery stages. The licensing authority expects that a challenge 25 policy implemented at the point of delivery. The licensing authority will expect operators to notify all customers that alcohol will only be delivered and handed over to an adult and signed for by an adult.

Retailers and the premises licence holder should ensure that delivery staff have been given appropriate training in procedures relating to requesting and identifying proof of age, and implement these procedures as standard. The licensing authority may require proof of training as part of the application process and also to be provided as part of the regular inspection visits.

The licensing authority will expect applicants and operators to demonstrate that all promotional material including the name of the business and website fully incorporates details consistent with the responsible sale of alcohol.

The licensing authority will expect applicants and operators to provide a website URL and telephone numbers to be used for orders including alcohol sales.

Where the authority's discretion is engaged following relevant representations, conditions restricting the operation of alcohol delivery services may be imposed by the authority where appropriate for the promotion of the licensing objectives.

The delivery of alcohol to problematic house parties causing local nuisance and disorder has been a problem in some areas of the town. Operators are expected to use their discretion to ensure that deliveries are refused in situations experiencing alcohol related nuisance or disorder and to ensure that alcohol is not given to persons who appear drunk.

Each application requesting authorisation for alcohol delivery sales will be considered on their own merits however the authority will take the following information into consideration:

- whether the applicant has engaged with local residents and/or local resident/amenity societies on the proposed application and the operation of the premises prior to submitting the application to the council
- whether the applicant has put forward sufficient control measures within the operating schedule to mitigate or eliminate the potential impact on residents in the area and the licensing objectives
- whether the delivery personnel working from the delivery centre are employed by the applicant or whether the delivery service element of the operation will be provided by a third party

- how will the applicant ensure that the operation of the premises and the delivery service, operated directly by them with their own staff does not adversely impact the licensing objectives, breach the terms and conditions of the licence or commit offences under the Act
- if a third party will provide the delivery service element of the operation on behalf of the applicant what are the contractual arrangements with that third party to ensure that the operation of the delivery service from the delivery centre does not adversely impact the licensing objectives, breach the terms and conditions of the licence or commit offences under the Act
- the operation and management of the proposed delivery centre from the premises
- the types of vehicles that will be used for the delivery of alcohol and/or late night refreshment and whether they will likely create public nuisance
- when will deliveries to the delivery centre or waste collection take place
- the history of the applicant's operation of licensed premises and the premise's operation in relation to any impact on the licensing objectives, breaches of any terms and conditions of a licence, any reviews of a licence or offences committed under the Act
- what measures the applicant or the third party providing the delivery service has put forward to mitigate the specific risk of public nuisance by the operation of the delivery service at the premises or at the end point of delivery
- what specific measures and processes the applicant or the third party providing the delivery service has put forward to mitigate the risk from the delivery of alcohol to children to ensure that they are protected from harm
- Premises that are located in predominantly residential areas must consider the impact of their operation on residents, especially if the operation of the delivery service will be late at night when roads are quieter. Applicants in these circumstances may consider whether the location for this type of operation is suitable and if so, they will need to demonstrate how they may mitigate the impact on residents and the licensing objectives

The authority is likely to place the following conditions on to a premises licence for delivery services where it is appropriate and relevant to the individual licence application:

- a standard challenge 25 age verification check shall be undertaken on entering the website
- a signature at the point of delivery must be obtained from a person above the age of 18 with appropriate age verification identification. No delivery shall be left without a signature
- alcohol shall only be delivered to a residential or business address and may not be delivered to a public place
- every third party courier delivery box shall be labelled with the words "age restricted product"
- any delivery driver or third party courier will be required to have appropriate age verification training, and in particular they will be required to have undergone training in refusal of supply where age verification is not provided, or the recipient is clearly intoxicated
- a refusals log will be maintained for deliveries and available for inspection on request
- appropriate security will be in place at the premises as agreed with the police
- measures for minimising noise and disturbance caused by the dispatch of deliveries to be identified in the operating schedule
- website and all promotional material should be designed and set out in a way which is consistent with the responsible retail of alcohol
- the authority would expect operators to have systems in place to ensure alcohol is not delivered to problematic house parties or to people who appear drunk and, in such instances, alcohol should be refused and that refusal recorded

This list is not exhaustive and the authority may impose further relevant conditions where appropriate to promote the Licensing Objectives.

## 8.7 Luton Council's Cumulative Impact Assessment

Luton has adopted a Cumulative Impact Policy, as of 7 January 2021, the concept of Cumulative Impact has been described within the Secretary of State's Guidance since the commencement of the Licensing Act 2003.

It will be part of the council's licensing policy from January 2021 and is a proper matter for the authority to consider when discharging its licensing functions and developing its licensing policy. It is also consistent with the authority's obligations to prevent crime and disorder as outlined in Section 17 of the Crime and Disorder Act 1998. However, this assessment shall not relate to the demand for certain types of premises (need). The issue of 'need' is not a proper matter for the authority to consider within the licensing policy statement.

Cumulative Impact for the purposes of this policy means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in an area or areas. For example, this may include the potential impact on crime and disorder or public nuisance on an area that a large concentration of licensed premises may have.

The Policing and Crime Act 2017 amended the Licensing Act 2003 to place 'Cumulative Impact Assessments' on a statutory footing by introducing section 5A of the Licensing Act. This amendment came into force on 6 April 2018.

This Cumulative Impact Assessment (CIA) is therefore being published under these new provisions of the Licensing Act 2003. The assessment will be reviewed every three years from the date it came into force consulting the persons outlined in Section 5 of the Licensing Act 2003. Regard is also had to local planning policies and other mitigating measures (set out below).

This assessment relates to the area shown within the policy as a Cumulative Impact Area. This assessment applies to all grants and material variations of premises licences and club premises certificates.

The assessment will relate to all premises within the specified area that have a premises licence or a club premises certificate which will be carrying on or proposing to carry on the following licensable activities:

- the sale or supply of alcohol on or off the premises
- the provision of late night refreshment on or off the premises
- the provision of any regulated entertainment

Whilst this Cumulative Impact Assessment does not apply directly to temporary event notices, the Secretary of State's Guidance to the Licensing Act 2003 states that it is open to the police and Environmental Health officers to refer to this assessment and the evidence contained within it when objecting to a TEN. The authority believes this is a right and proper approach as extension of hours within the Cumulative Impact Area can have a direct impact on the promotion of the licensing objectives.

This assessment is being published because the authority is of the opinion that the number of licensed premises and club premises certificates within the Town Centre and High Town area is such that it is likely that granting further licences or variation to licences would be inconsistent with the authority's duty to promote the licensing objectives. This opinion has been reached after careful consideration of evidence showing high levels of public nuisance, antisocial behaviour and crime and disorder within these areas.

The content of this assessment does not change the fundamental way that decisions are made under the 2003 Act. The authority will make all decisions on applications within the Town Centre

and High Town Cumulative Impact Area on a case by case basis with a view on how best to promote the licensing objectives.

It also does not remove the requirement for a relevant representation to be submitted by a responsible authority or a member of the public (defined as 'any other person' within the Act) against an application for it to be considered by the Licensing Sub Committee. An application that does not receive relevant representations is deemed granted under the Act.

It is the general policy of the authority to refuse applications for the grant or variation of a premises licence or club premises certificate in the town centre and high town cumulative impact area. This general policy refers to all licensable activities specifically the sale of alcohol on or off the premises, the provision of late night refreshment on or off the premises and regulated entertainment. It also applies to material variations for the increase in capacity, the increase in opening hours and any other matter the authority considers relevant.

However, the policy is not absolute and applicants will have the opportunity to address matters affecting cumulative impact within their application. Applicants will have to demonstrate that their application and proposed operation is not inconsistent with the authority's licensing policy, this assessment and the authority's ability to be able to promote the licensing objectives.

A cumulative impact policy creates a rebuttable presumption that an application within the designated cumulative impact areas for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process and operating schedule, the steps that they intend to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.

There are mechanisms and interventions, both within and outside the licensing regime, that are available for mitigating adverse impacts on the licensing objectives and should be considered alongside local licensing policy by the licensing authority, responsible authorities, other persons, licensed premises and new and existing applicants:

- planning controls
- voluntary or best practice schemes
- positive measures to create a safe and clean environment in partnership with local businesses and communities
- provision of CCTV
- powers to designate parts of the town as places where alcohol may not be consumed publicly
- provision of transport facilities including taxi ranks
- confiscation of alcohol from adults and children in designated areas
- police enforcement of the law with regard to disorder and antisocial behaviour, including the issuing of fixed penalty notices
- enforcement action against those selling alcohol to people who are inebriated
- police powers to close some premises for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise
- the power of police, local businesses or residents to seek a review of the licence or certificate

In areas where there is an excessive accumulation of off and on licensed premises, it is relatively straight forward to provide a direct correlation between those premises and public nuisance, antisocial behaviour and crime and disorder in the area, through an analysis of the evidence including operating hours of the premises and the peak times for incidents and calls for service.

It is more challenging but not impossible to provide a direct correlation between the accumulations of off licensed premises and public nuisance, antisocial behaviour and crime and disorder in the same way. It is recognised that people are not necessarily drinking on or near to the premises where they purchased the alcohol, and may delay drinking the alcohol until they arrive at home or consume the alcohol elsewhere.

However, in the identified areas there is an issue with people drinking on the street and causing disorder and antisocial behaviour issues. The council and Bedfordshire Police have evidence, which identifies smaller independently owned off licences in the town centre who are selling strong and cheap alcohol popular to street drinkers. Opening new off licences in these areas, where street drinking and the associated antisocial behaviour is most problematic would add to the problems already being experienced in the area.

The council has applied a cumulative impact policy in the following areas:

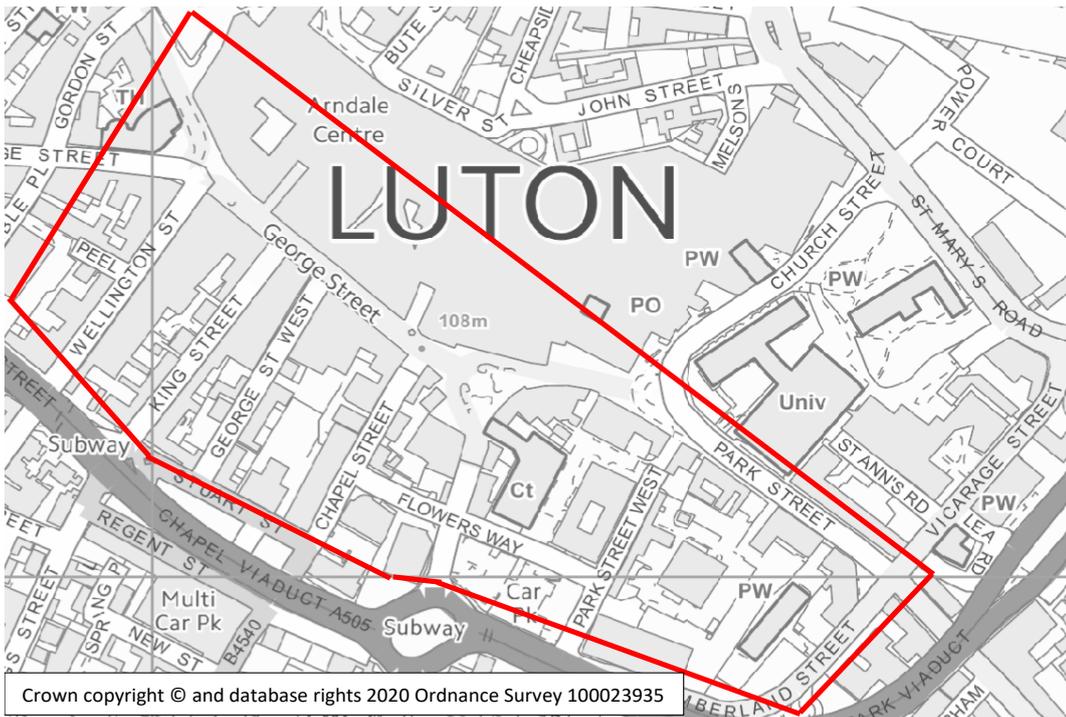
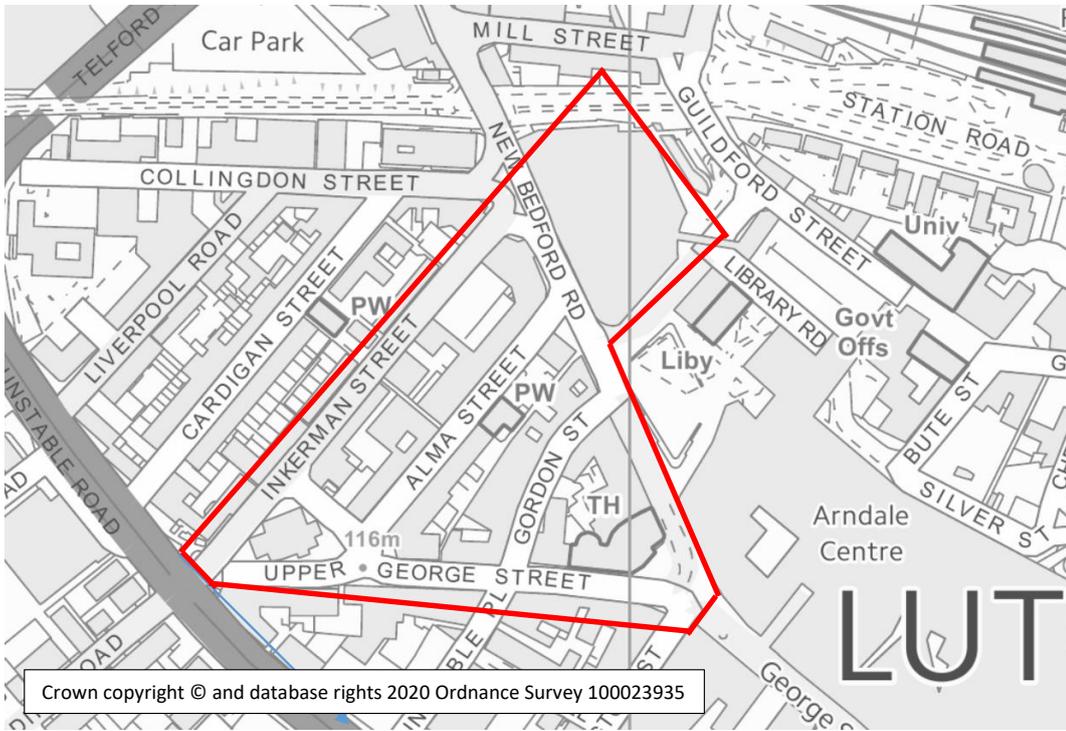
#### **Town Centre areas**

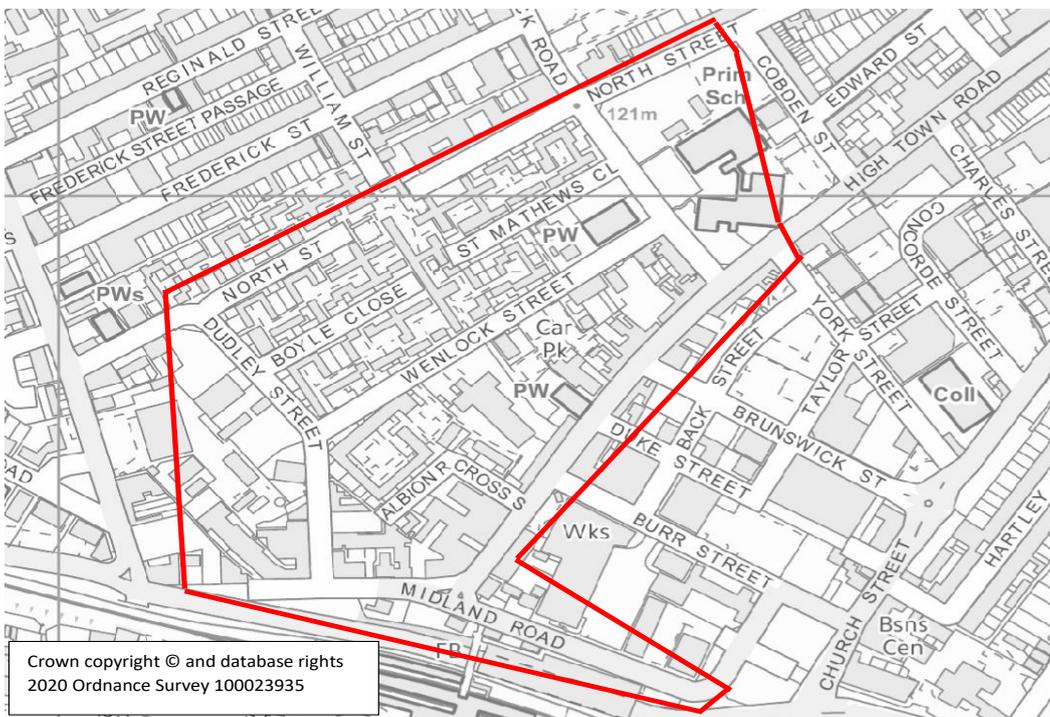
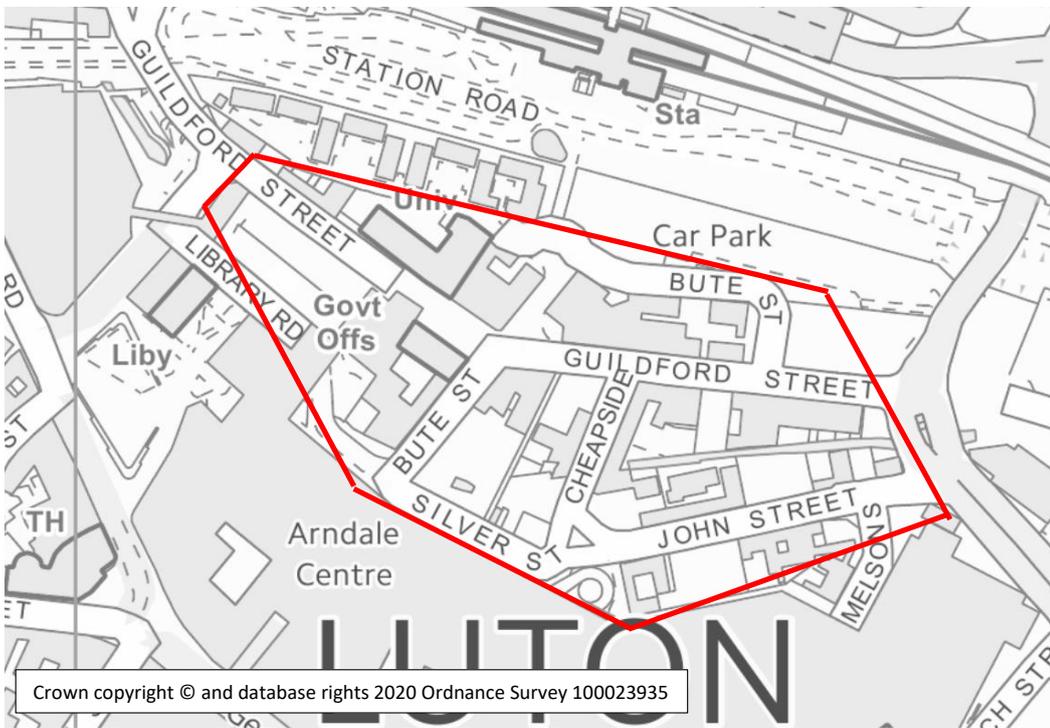
1. Gordon Street
2. Manchester Street
3. Upper George Street
4. New Bedford Road/Junction of Collingdon Road
5. Galaxy – Bridge Street
6. Alma Street
7. Inkerman Street
8. Peel Street/Peel Place
9. Wellington Street
10. King Street
11. George Street West
12. George Street
13. Chapel Street
14. Park Street area from and including Cumberland Street to Market Town Centre (Market Square Amphitheatre)
15. Park Street West
16. Flowers Way
17. Bute Street
18. Guildford Street
19. John Street
20. Cheapside
21. Silver Street

#### **High Town areas**

1. High Town Road from Junction of Midland Road to York Street
2. Dudley Street
3. Midland Road
4. North Street to the Junction of Cobden Street

The Mall Shopping Centre, is not included within the Cumulative Impact Policy.





These areas have been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in these areas continue to adversely affect the promotion of the following licensing objectives:

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

The council will seek to refuse all applications in these areas on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or existing premises extending their hours of operation.

The council will only grant applications in exceptional cases, where the applicant has been able to identify through rigorous risk assessment and their operating schedule that the licence would not have a negative impact on the licensing objectives.

This applies to alcohol led premises such as bars, pubs and nightclubs, and for premises seeking late night refreshment such as takeaways, late opening restaurants and premises seeking to sell alcohol for consumption off premises, such as off licences and convenience stores.

#### Other initiatives within the Cumulative Impact Area

Prospective applicants and current licence holders should also familiarise themselves with the other initiatives within the Cumulative Impact Areas. These have been implemented by the licensing authority in conjunction with its partners to assist in reducing public nuisance, antisocial behaviour and crime and disorder within these areas with particular regard to the evening and night time economy.

- Luton Safe
- Luton Community Safety Partnership
- The support of street pastors scheme
- Public Space Protection Order
- Test purchasing
- Regular routine inspections
- Purple Flag
- Best Bar None

Applicants who wish to operate in the Cumulative Impact Area will be expected to be familiar with and supportive of these initiative and work in partnership to maintain a cohesive and best practice approach to promoting a safe environment in the town.

#### What is the effect of the Cumulative Impact Policy

The adoption of the Cumulative Impact Policy do not prevent any person making an application for a licence or giving a temporary events notice for premises within the designated area.

Responsible authorities and interested parties must note that the licensing authority can only give effect to the Cumulative Impact Policy in respect of any application for premises within the cumulative impact areas if a relevant representation is received. If no relevant representations are received in respect of an application, the licensing authority is obliged to grant that application in terms that are consistent with the applicants operating schedule.

The responsible authorities and other persons are encourages to set out in their representations to make reference to this assessment and the evidential basis and any other matters that they consider would add to the existing cumulative impact as may be relevant to an application.

Applicants will be expected to address Cumulative Impact Assessment through the contents of their application and in particular their risk assessment, operating schedule, proposed conditions, operating style and supporting information.

Applicants are encouraged to have pre application discussions with the licensing authority and relevant responsible authorities and proper consultation with persons likely to be affected by the application to address any likely concerns in the application.

They should address how the application will contribute to the vision and policies for the town of the licensing authority (including the planning and development of the town and its economic, social and environmental wellbeing). They should also address the deliverability of the perceived benefits and the avoidance of negative impacts on the licensing objectives in such a way that provides confidence to the licensing authority, responsible authorities and other persons.

The absence of a Special Policy does not prevent any responsibly authority or other person making representations on an application for the grant or variation of a licence or in respect of a temporary events notice on the grounds that the premises will give rise to adverse impacts on the basis of cumulative impacts.

#### Cumulative Impact Assessment evidence

Evidence of Cumulative Impact are highlighted in the following reports:

- Town Centre CIP Report (appendix A)
- High Town CIP Report (appendix B)
- Crime and ASB in Luton (appendix C)

# Appendices

## Appendix A – Measures to promote the prevention of crime and disorder

The following lists suggestions that should be considered by applicants when making an application for a premises licence under the act. As they will vary according to the use of each premises, the following list is not exhaustive and is intended to act a prompt for matters to be considered.

Licensees and applicants should use their own experience and knowledge of their customers and the local area to add or amend these and form them into an operating schedule.

The content of an operating schedule subsequently becomes the bases of conditions on the licence and should be in a form that be expressed as an enforceable condition. Failure to do this may lead to a representations from the authority, a responsible authority or other person.

- Will CCTV be made available, and if so, where are the areas covered? Does the CCTV have the ability to see clear full face recording of patrons entering and exiting the premises and does it record the patron search are at the entrance?
- What is the retention period for CCTV recordings, the council would usually expect to see a minimum of 31 days.
- What is the provision of instant access of CCTV to Police and Authority Officers, who will have the ability to produce copies or download images?
- Are SIA door supervisors employed, if so what are the numbers of door supervisors, what will be their use of search arches/wands and what is the location of such searches? All SIA staff to have their details recorded and checks made with SIA to ensure licences are current, staff should be expected to sign in when commencing work and out when they leave. Induction/training should be given to new staff and a record of the training should be recorded and retained.
- Will door staff received any venue specific training to enable them to deal effectively with the clientele of the venue? If so all training should be recorded and retained.
- Is there use of ID scanning and recording systems, if so what are the hours during which such systems will be in place, that all patrons will be required to use them.
- Will there be a 'No ID no entry' policy?
- Any measures proposed to prevent possession, supply or consumption of illegal drugs and possession of weapons. For example, designing out areas or surfaces where there is a likelihood of drug use
- Is there a clear written policy regarding persons caught using/supplying drugs within the premises and what is the provision of safe storage of any seized drugs
- Has the use of plastic or toughened glass for the serving of alcohol been considered
- Any restrictions on patrons using smoking areas
- Are patrons search on re-entering from smoking areas if there is potential for patrons to have contact with non-patrons
- Location of lighting inside or outside of the premises
- Is there a proof of age scheme if so, what is the scheme
- How are the numbers of patrons in the premises managed, including reference to any capacity restriction
- What is the frequency of staff training, what training is given, what is the availability of completed training records and details of content of training
- What measures will be in place to manage queuing outside the premises

- Detailed achievable dispersal policy
- Are staff aware of how to respond to and record incidents of crime on their premises? Are incidents logged and reviewed in order to identify recurring issues?
- For premises offering off sales, should beers, ales, lagers and ciders and anything similar that are sold/supplied in a can only be sold in multiple packs in order to discourage street drinkers?
- Will there be a restriction on the sales/supplies of super strength beers, ales, lagers or ciders or anything similar?
- Will there be a restriction on the sale/supply of miniature bottles of spirits of 50ml or less at any time?

## Appendix B – Measures to promote public safety

The following suggestions should be considered but will vary according to the use of each premises. The following list is not exhaustive and is intended to act as a prompt for matters to be considered. Licensees and applicants should use their own experience and knowledge of their customers and the local area to add or amend these to form them into an operating schedule.

The content of an operating schedule subsequently becomes the bases of conditions on the licence and should be in a form that be expressed as an enforceable condition. Failure to do this may lead to a representations from the authority, a responsible authority or other person.

- What staff training will be available, will it include awareness in such things as selling alcohol to those already drunk? Will staff training be recorded and made available for inspection upon request of an authorised officer?
- The potential impact of drunkenness on levels of violence
- For premises operating within the night time economy what is the availability of public transport or the taxi and private hire trade?
- What are the measures for combatting potential drink spiking
- Has the premises and its staff (including door security staff) signed up to any relevant voluntary charters in relation to keeping safe and patrons safe?
- Are all staff trained to recognise and assist vulnerable patrons, such as those leaving alone and/or appear to be under the influence of alcohol or drugs?

## Appendix C – Measures to promote the prevention of public nuisance

The following suggestion should be considered but will vary according to the use of each premises. The following list is not exhaustive and is intended to act as a prompt for matters to consider. Licensees and applicants should use their own experience and knowledge of their customers and the local area to add or amend these to form them into an operating schedule.

Applicants will be expected to demonstrate in the operating schedule, that nuisance arising from noise, light, smoke odour, list, ASB, human waste, fly posting, highway and footway disruption, can be minimised. Failure to do this may lead to a representation from the authority, a responsible authority or other person.

- Is an acoustic report needed if application involves live or recorded music during the night time economy
- Can the details of the location and types of any schemes designed to attenuate noise from the premises be provided
- Can details of any measures to minimise the noise caused by patrons outside the premises be provided
- Provide details of the location and management of any outdoor areas within the property boundary be used by patrons drinking, eating, smoking, queuing or congregating outside, and the hours of use of such areas.
- Include details of dispersal policies, and consider the role of door supervision and winding down periods
- Will you reduce music sound levels and tempo towards the end of the evening? Will lighting be increased towards the end of the evening?
- Any use of outside areas such as tables and chairs on the highway or smoking areas
- If the operation of the venue will attract addition litter such as food cartons what measures will be put in place to deal with this?
- Will the premises carry out litter patrols
- How will the premises manage patrons gathering outside the premises who may be potentially causing noise disturbances
- Will notices be displayed in and around the premises asking patrons to leave quietly

## Appendix D – Measures to promote the protection of children from harm

The following lists suggestions that should be considered by applicants when making an application for a premises licence under the act. As they will vary according to the use of each premises, the following list is not exhaustive and is intended to act a prompt for matters to be considered. Applicant may also refer to appendix E when considered conditions under this objective. Licensees and applicants should use their own experience and knowledge of their customers and the local area to add or amend these and form them into an operating schedule.

The content of an operating schedule subsequently becomes the bases of conditions on the licence and should be in a form that be expressed as an enforceable condition. Failure to do this may lead to a representations from the Authority, a responsible authority or other person.

- Will the premises adopt a proof of age scheme, if so details of the scheme should be provided and what ID the premises will consider as acceptable, the council strongly recommends that the premises adopt the 'Challenge 25' Scheme
- Any regular staff training, details of which should be recorded and made available for inspection upon the request of an authorised officer
- Will any on line training be used, if so provide details of the training and who has completed this? Will further refresher training be required – if so when is this scheduled for?
- Who ensures that training takes place and proper records are kept and regularly updated
- Will a refusals register be kept on the premises and used to record instances when sales have been refused? If so will this be made available for inspection upon request of any authorised officer
- The frequency with which the refusals register will be checked to see if it is consistently used by staff
- Are there any restrictions on the hours that children may be present in the premises
- Are there any requirements for accompanying adults to be present
- If applicable, how will compliance with the British board of film censorship (BBFC) film classification system be ensured?
- Will the premises adopt (where relevant) a wider safeguarding policy?

We recommend that off licences consider the Guidance from Association of Convenience Stores on their obligations in relation to underage sales. This guidance can be found on the [ACS website](#) (search 'ACS preventing underage sales' within a search engine).

Venues that are family friends are particularly welcome, applicants are encouraged to make this clear in their application, and to make this explicit in the operation schedule.

## Appendix E – Age verification and test purchasing

Age verification measures, and test purchasing to assure these are robust and well operated by licenced premises are core measures to ensure the licensing objective for the protection of children is met.

To support the age verification process the authority strongly recommends that premises have the following measures in place to ensure age verification for sales:

- That 'Challenge 25' is supported as part of the age verification scheme established. The scheme should require production of evidence of age (comprising any PASS accredited card or passport of driving licence) from any person appearing to staff engaged in selling or supplying alcohol to be under the age of 25 and who is attempting to buy alcohol.
- That the evidence of the scheme (in the form of documented procedures) is maintained and made available for inspection by authorised officers.
- That all staff involved in the sale of alcohol shall be trained in the age verification scheme and records of such training shall be retained on the premises and made available for inspection by authorised officers.
- That an incident log shall be maintained, and details of all age related refusals recorded. This book shall be reviewed monthly by the DPS and any actions taken recorded in the book and signed off by the DPS. This log shall be retained on the premises and made available for inspection by authorised officers.
- That a personal licence holder shall be on the premises at all times alcohol is supplied.
- That the DPS shall ensure that, as far as is reasonably practical, alcohol is displayed in an area which can be constantly monitored or supervised by staff, separate from goods likely to be purchased by persons under 18.

Luton Council, Trading Standards team operate a policy of carrying out test purchasing for under age alcohol sales. **If sales are made to children, action will be taken.** This may be the review of the licence, or a request to include additional conditions on the licence designed to assist the management of counter attempts by children to buy alcohol.

The authority may also, as a responsible authority, apply for reviews of premises licences where appropriate.

If deficiencies in operating schedules of current licences become apparent the authority will initially ask the licence holder to remedy this by way of an application for minor variation.

If this is not done then a review may be necessary to impose the conditions on the licence. This process does not preclude prosecutions for offences under the Licensing Act 2003.

## Appendix F - Authority and Designated Premises Supervisor (DPS)

The authority recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise awareness of their responsibility and particularly of the offences contained within the act.

Similarly, persons employed at on licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises.

Suitable training should be extended to all staff involved in managing or supervising the premises. All training undertaken should be recorded.

It is recommended that persons employed on premises providing entertainment for children and youths attend training programmes in basic child protection and safety and safeguarding, and if appropriate have necessary DBS checks.

Every premise licensed for the sale of alcohol must have one personal licence holder specified as Designated Premises Supervisor (DPS). This will normally be the person with day to day responsibility for running the premises.

Every supply of alcohol under a premises licence must be made or authorised by a person who holds a personal licence. The licensing act does not require presence of a personal licence holder at all material times but if any sales are made when a personal licence holder is not present, then they must be authorised by somebody who holds a personal licence, and authorisation should be displayed prominently within the premises.

The authority recognises that there is no requirement for the DPS to be at the premises at all times that it carries out licensable activities, and it will not seek to achieve this by way of conditions.

However, the DPS must be able to ensure that all four licensing objectives are properly promoted and that each premises complies with licensing law and licence conditions. The authority expects that a DPS will be able to demonstrate knowledge of both the local geographic area and the patrons the premises attracts. The DPS should be sufficiently fluent in English to be able to properly communicate with patrons.

The licensing authority considers it reasonable that those who hold licences and persons involved in the sale of alcohol are able to understand the terms of the licence and their legal obligations.

It is also expected that those making sales of alcohol can understand and converse in the English language and be able to read and write in English so as to be able to complete documents such as refusals books and reading training guides.

The authority expects that when the DPS is not present on the premises written authorisation will have been given to other members of staff, and that one of these members of staff will be on the premises. Such authorisation should be in writing and displayed within the premises.

It is considered good management practices to ensure that a personal licence holder and/or DPS is available at all hours that the premises is open to the public. Depending on the nature of the premises, it may be sufficient for the personal licence holder to be contactable by telephone. It is regarded as good management practices that a personal licence holder and/or DPS be physically on the premises from 11pm onwards.

## Appendix G – Dispersal and entry

Section 182 guidance makes it clear that licensing should not be seen as the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of those with responsibility for managing and controlling licensed premises.

However, licensees should take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter to the extent that these matters are within their control.

Licence holders should also consider the impact that patrons or others congregating around entry points to their premises have on the licensing objectives, particularly in relation to the general public. Licence holders should take all reasonable measures to ensure that both dispersal from their premises and entry into the premises contribute to the licensing objectives.

The authority recognises that it is difficult for licence holders to have influence over their patrons once they have left the immediate vicinity of their premises, however, disturbance caused by patrons, if linked to the operation of the premises can be a reason for the authority to take action.

## Appendix H – Minimum unit pricing

A ban on selling alcohol below a 'permitted price' has been in place since 28 May 2014. This was introduced through the Licensing Act 2003 (Mandatory Conditions) Order 2014. The permitted price is defined as the level of alcohol duty plus VAT.

All premises are required on request by the licensing authority to demonstrate that any alcohol is being sold at a price not less than the permitted price such as the level of alcohol duty plus VAT.

Premises are expected not to offer or publicise irresponsible promotions which encourage irresponsible drinking.

Where any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it will be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. Each case will be considered on its own merits.

Any future legislation or legislative guidance on minimum unit pricing per unit of alcohol sold will apply.

## Appendix I – A guide on the requirements for premises plans under the Licensing Act 2003

Unless the relevant licensing authority has previously agreed in writing with the applicant following a request by the applicant that an alternative scale plan is acceptable to it, in which case the plan shall be drawn in that alternative scale, the plan shall be drawn in standard scale.

The plan shall show the following:

- a. the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises
- b. the location of points of access to and egress from the premises
- c. if different from sub paragraph 3b the location of escape routes from the premises;
- d. in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity
- e. fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment
- f. in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor
- g. in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts
- h. in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms
- i. the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment
- j. the location of a kitchen, if any, on the premises

The plan may include a legend through which the matters mentioned or referred to in paragraph 3 are sufficiently illustrated by the use of symbols on the plan.

Whilst not a requirement of the legislation we ask that for ease of handling, plans are provided no larger than A3.

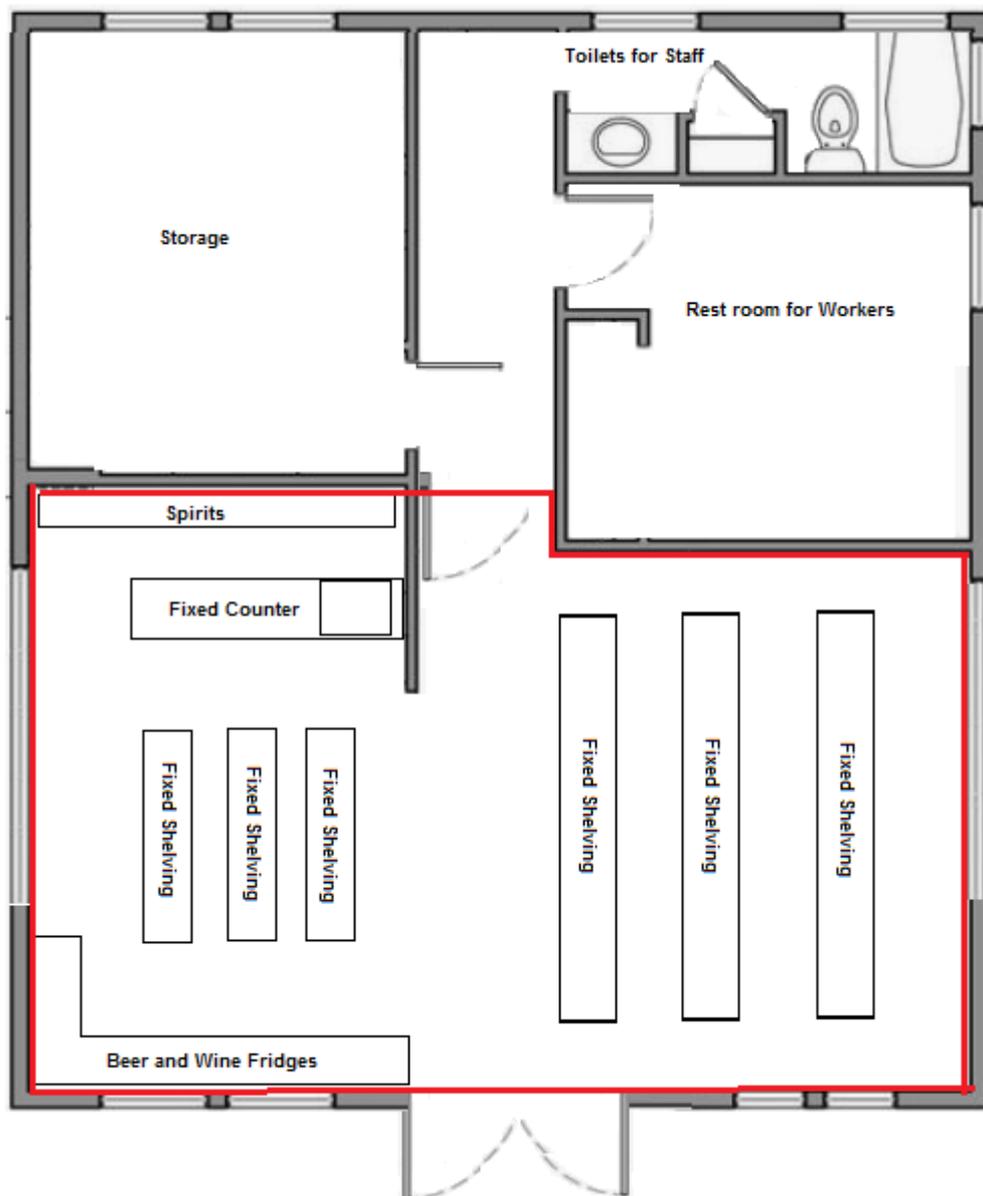
The following information may be added to your plans. This is not a mandatory requirement but will assist your application by making it easier for us and the responsible authorities to understand your application and how the premises are to be operated.

1. plans to be dated and bear the name and location of the premises
2. to be endorsed with a location plan showing the site of the premises
3. the scale used to be endorsed on the plan
4. the total extent of the licensed premises to be defined by a continuous red line
5. where areas of the premises are to be used for specific purposes to which the licence will apply for example, children only allowed into one area, adult entertainment and showing of films, those areas should be outlined and defined in a key accompanying the plan

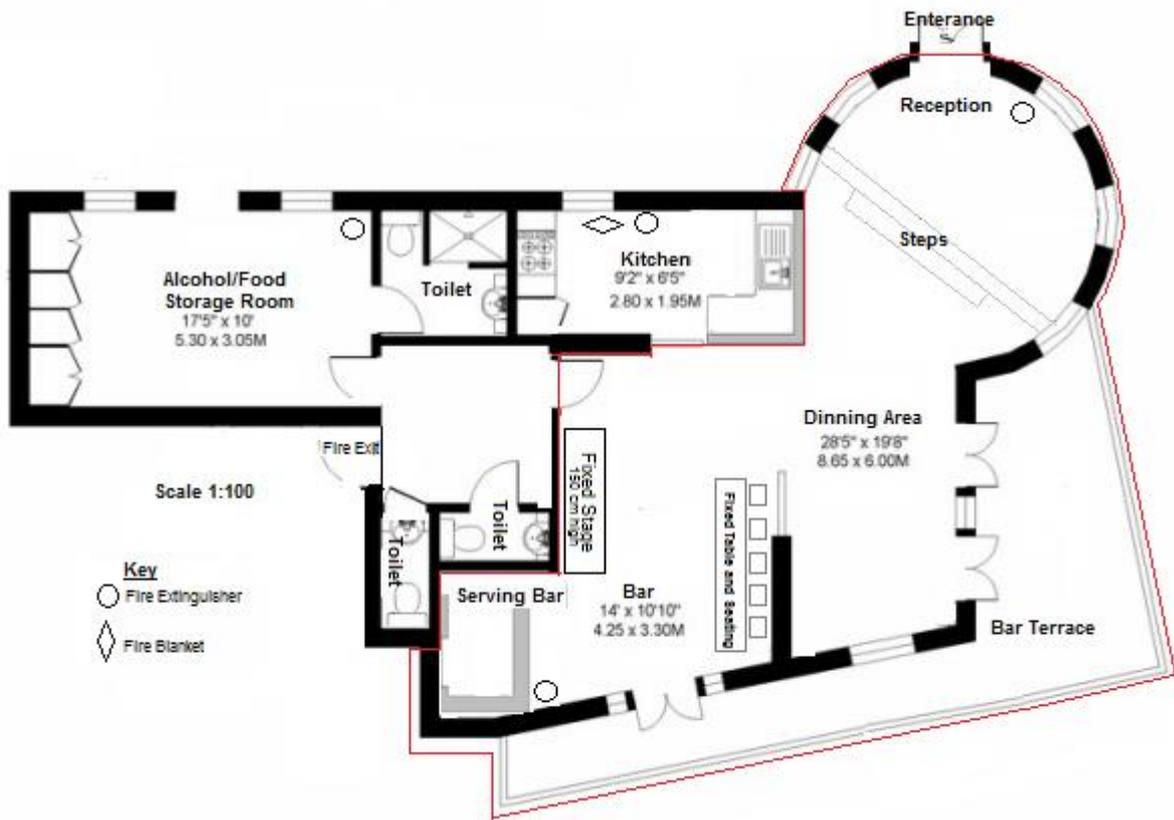
Fire precaution details:

1. where applicable – fire resistance doors and structures should be indicated
2. type of surface linings and finishes to walls and ceilings (in new constructions only)
3. emergency lighting
4. maintained exit signage
5. door furniture, for example panic bars
6. where applicable - fire alarm and smoke detection details
7. firefighting equipment

# Sample shop plan



# Sample plan bar/restaurant plan



Appendix J – Notice of application advert sample

**The Licensing Act 2003**  
**Notice of application for licence**

**I/We**.....

**Of**.....

.....

Am/ are applying for the grant / variation of a premises licence / club premises certificate

If granted, the licence will enable the following to take place: sale of alcohol for consumption on the premises / sale of alcohol for consumption off the premises / provision of late night refreshment / provision of regulated entertainment consisting of:

.....  
.....  
.....  
.....  
.....

Persons wishing to make representations in respect of this application may do so by writing to: Licensing Service, the council, Town Hall, Luton, Beds, LU1 2BQ, within 28 days from the date of this notice. A copy of the Application is also kept at the above address and may be viewed during normal office hours.

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 on summary conviction is a level 5 fine on standard scale.

Notice Date.....

**The Licensing Act 2003**  
**Notice of application for licence**

I / We Mr James Smith

Of **JandS Bar, 123 Jacobs Street, Luton, LU1 2BS**

**Am / are applying for the grant /-variation of a**  
premises licence / ~~club premises certificate.~~

The sample advert is for a grant premises licence– if you are applying for a variation or for a club premises certificate, you would delete out the grant and the premises licence accordingly

If granted, the licence will enable the following to take place: sale of alcohol for consumption on the premises / ~~sale of alcohol for consumption off the premises / provision of late night refreshment /~~ provision of regulated entertainment consisting of

**Alcohol Monday to Sunday 8am to 10pm regulated entertainment consisting performances of dance Monday to Sunday 10am to 9pm**

Depending on what you are applying for in your application, will depend on what you delete out, this sample advert is for alcohol for consumption on the premises with regulated. If you are having anything else, delete out that which doesn't apply

Persons wishing to make representations in respect of this application may do so by writing to licensing department, the council, Town Hall, Luton, Beds, LU1 2BQ, within 28 days from the date of this notice. A copy of the application is also kept at the above address and may be viewed during normal office hours.

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 on summary conviction is a level 5 fine on standard scale.

Dated...**1 April 2018**

Date the application was submitted and accepted by licensing

## Appendix K – List of responsible authorities under the Licensing Act 2003

### Responsible authorities – Licensing Act 2003

The attached list contains the details of the responsible authorities who must receive a copy of your application, plan of the premises and operating schedule in addition to the Licensing Service, if you are applying for a grant or a variation of a Premises licence or Club Premises certificate.

Failure to serve these documents within 48 hours of submitting your application to the Licensing Service may result in your application being delayed or rejected.

#### **Police**

Luton Licensing Officer  
Bedfordshire Police Headquarters  
Woburn Road  
Kempston  
Bedford  
MK43 9AX  
Tel: 01582 394269  
[licensingluton@bedfordshire.pnn.police.uk](mailto:licensingluton@bedfordshire.pnn.police.uk)

#### **Fire authority**

Chief Fire Officer  
Bedfordshire and Luton Fire and Rescue  
Service  
c/o Southern Area Office  
Studley Road  
Luton  
LU1 3BB  
[SAOfiresafetyadministration@bedsfire.com](mailto:SAOfiresafetyadministration@bedsfire.com)

#### **Health and Safety Department (Environmental Health)**

Commercial Regulatory Manager  
Luton Council  
1<sup>st</sup> Floor Annex  
Town Hall  
Luton  
LU1 2QP  
Tel: 01582 510330  
[environmentalhealth@luton.gov.uk](mailto:environmentalhealth@luton.gov.uk)

#### **Planning authority**

Head of Planning and Transportation  
Planning Service  
Business and Consumer Services  
Luton Council  
Town Hall  
George Street  
Luton  
LU1 2BQ  
[developmentcontrol@luton.gov.uk](mailto:developmentcontrol@luton.gov.uk)

**Luton Local Safeguarding Children Board (LSCB)**

Team Manager Safeguarding and Quality Assurance  
Children and Learning Department  
Luton Council  
Town Hall Extension – Ground Floor  
Luton, Beds LU1 2BQ  
[lutonlscb@luton.gov.uk](mailto:lutonlscb@luton.gov.uk)

**Weights and Measures (Trading Standards)**

Commercial Regulatory Manager  
Luton Council  
1st Floor Annex  
Town Hall  
Luton  
LU1 2QP  
Tel: 0345 404 0506  
[tradingstandards@luton.gov.uk](mailto:tradingstandards@luton.gov.uk)

**Luton Drug and Alcohol Partnership**

Arndale House,  
37 The Mall,  
Luton,  
LU1 2LJ

**Alcohol Licensing team**

Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY  
[alcohol@homeoffice.gsi.gov.uk](mailto:alcohol@homeoffice.gsi.gov.uk)

## Appendix L - A guide to submitting representations under the Licensing Act 2003

Under the Licensing Act 2003, any person is able to make written representation in relation to certain types of applications. However, for a representation to be considered relevant, it must address the likely effect the granting of the application will have on the promotion of one or more of the following licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Representations must relate to the impact of licensable activities carried on from the premises on those objectives listed above. By way of an illustrative example: "...a representation from a local business person about the commercial damage caused by competition from a new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant."

Please also be aware that the licensing authority will not consider representations that are frivolous or vexatious. The former category refers to representations that display a lack of seriousness in purpose or nature, whilst the latter relates to representations, which appear to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause of justification. Any person who is aggrieved by a rejection of their representation on either of the above grounds may lodge a complaint in writing to the Licensing Service.

### Making a representation

Relevant representations must be in writing and submitted to the licensing authority within the 28 day notice period this includes emails. Late representations will not be considered and will be returned. Postal and email address can be found at the end of this fact sheet.

If you are unsure when the application was made, you can view online on the councils electronic register at [www2.luton.gov.uk/elr](http://www2.luton.gov.uk/elr) if you type this in your internet page will take you to the relevant page to search. We have prepared a 'Representation Form' which can be used to assist you when making representations. The form is designed to help extract the type of information which is required to ensure the representation is relevant and therefore, can be accepted.

### Alternatives to making a representation

If you do not want to make your own representation, then you may wish to consider approaching a representative who may consent to make the representation on your behalf. For example, you may wish to ask a local councillor or any other recognised body or association. If you are unsure, about whom you can approach in your area, please contact the Licensing Service – we will be happy to offer advice.

If your chosen representative is willing to act on your behalf, you must submit a letter of authorisation to the Licensing Service as part of your representation. You must provide your chosen representative with your name, address and details of the grounds upon which your representation is made.

They should then submit written representation to the licensing authority replicating the grounds upon which your representation is made.

Please note that all future dialogue and correspondence will be held with your representative, and the licensing authority will not be in a position to make direct contact with you. Consequently, the notice of hearing and any decision notice will also be sent to your representative.

### Petitions

When organising or submitting a petition as part of your representation, there are some important factors to bear in mind:

- we ask that the instigator of the petition identifies themselves as a central point of contact, as we may need to make contact in order to verify certain matters and if we are unable to do so this could invalidate the petition
- each page of the petition should contain information as to the purpose of the petition so that all persons know what they are signing
- full names and addresses for each signatory must be provided
- all signatories must be made aware that where representations are made and not withdrawn, a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers

The licensing authority will not write to each signatory separately but instead expects that the instigator of the petition will advise each signatory of the hearing date and the final outcome of the application. It is also expected that the instigator will represent signatories at the hearing and will speak for them.

## Appendix M – What to expect at a Licensing Hearing

Full information on the procedures is sent to all parties prior to the hearing, the information below is a summary of that information.

Parties to the hearing must notify the council's licensing team within prescribed timescales (these vary according to the type of hearing) that they intent to attend and/or be represented at the hearing and whether any witnesses will be attending on their behalf.

- It is the clerk who will be one of the council's solicitors or in some cases an external solicitor approved by the council's Legal team will assist the panel on matters of law and procedure.
- The clerk will give a brief outline of the application and introduce the members of the panel, the licensing officer, the applicant and those who have made representations. They will ensure that those present understand the procedure to be followed.
- The hearing will normally be in public. However, the panel may decide to exclude the public from any part of the meeting, not only the panel's deliberations (including the applicant and those making representations) where it considers that the public interest in doing so outweighs the public interest in the hearing taking place in public.
- The licensing officer will present the report outlining the application and relevant representations.
- The panel may question the licensing officer.
- The applicant may question the licensing officer.
- Those making representations may question the licensing officer.
- The applicant or their representative will present their case and call their witnesses.
- The panel may question the applicant
- Those making representations may question the applicant
- Those making representations or their representative will present their case.
- The panel may question those making representations.
- The applicant may question those making representations.
- The applicant will sum up their case.
- Those making representations will then sum up their case (s).
- The clerk will then raise any points that need to be raised before the application is determined.
- The applicant and those making representations will be asked whether there is anything further they wish to say.
- Members will consider whether the public interest of holding their deliberations in private outweighs the public interest in holding their deliberations in public. Where members

consider that they should deliberate in private all persons other than the members, the clerk and any person present solely for the purpose of taking notes, shall withdraw from the room. Any advice given by the clerk to the panel in private will be repeated to all the parties before the panel announces their decision.

- Where the decision must be made at the conclusion of the hearing the chair will inform the applicant, the licensing officer, and those making representations of its decision and the reasons for it. The decision will be confirmed in writing to all parties within five working days.
- Where the decision is not required to be made at the conclusion of the hearing the panel will inform the parties in writing of its decision and the reasons for it within five working days.

Table 1 sets out the schedule of delegation of decisions and functions to Licensing Committee, Sub Committees and Officers. This form of delegation is without prejudice and to the council's right to redirect an application as appropriate in the circumstances of any particular case.

<b>Matter to be dealt with</b>	<b>Licensing committee</b>	<b>Licensing sub committee</b>	<b>Officer</b>
Application for personal licence		If a representation is made	If no representation is made
Application for personal licence with unspent convictions		All cases	
Application for premises licence / club premises certificate		If a representation is made	If no representation is made
Application for provisional statement		If a representation is made	If no representation is made
Application to vary premises licence / club premises certificate		If a representation is made	If no representation is made
Application for minor variation		If a representation is made	If no representation is made
Application to vary designated personal licence holder		If a police objection is received	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection is received	All other cases
Application for interim authorities		If police objection is received	All other cases
Application to review premises licence / club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	

Determination of a police representation to a temporary event notice		All cases	
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## Appendix N – Documents, which demonstrate right to licence in the UK

Applicants may be asked to demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They can do this by providing with their application, copies or scanned copies of the documents listed below (which do not need to be certified).

The documents that demonstrate an entitlement to work in the licensing regime are based on existing prescribed document lists for checks undertaken by employers. They are set out in the following regulations: The Immigration (Restrictions on Employment) Order 2007 and the Immigration (Restrictions on Employment) (Codes of Practice and Amendment) Order 2014.

- an expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK. See note below about which sections of the passport must be provided.
- a current or expired passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- a Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- a Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- a current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- a current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- a current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- a full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- a birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- a certificate of registration or naturalisation as a British citizen, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- a current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- a current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relating to the carrying on of a licensable activity.
- a current Residence Card issued by the Home Office to a person who is not a national of an European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- a current Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK,

and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity. when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- a Certificate of Application, less than 6 months old, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of an European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office, such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- reasonable evidence that a person who is not a national of an European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – such as a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - a. working such as employment contract, wage slips, letter from the employer
    - b. self-employed such as contracts, invoices, or audited accounts with a bank
    - c. studying such as letter from the school, college or university and evidence of sufficient funds
    - d. self-sufficient such as bank statement

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

- original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided
- any page containing the holder's personal details including nationality
- any page containing the holder's photograph
- any page containing the holder's signature
- any page containing the date of expiry
- any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work
- if the document is not a passport, a copy of the whole document should be provided
- in addition, all staff who are employed in the UK must have the right to work in the UK

Employing someone illegally without carrying out the prescribed checks can lead to robust sanctions including:

- a civil penalty of up to £20,000 per illegal worker
- a criminal conviction carrying a prison sentence of up to 5 years and an unlimited fine
- closure of the business and an application for a court compliance order
- disqualification as a director (where relevant)
- not being able to sponsor migrants
  - e. seizure of earnings made as a result of illegal working

## Appendix O – Glossary of Terms

Terms	Description
<b>DPS</b>	The Designated Premises Supervisor (DPS) is the personal licence holder specified in the premises licence. All premises licensed to sell alcohol will have an identified personal licence holder, known as the DPS. The purpose of the DPS is to ensure there is always one specified individual who can be identified as a person in a position of authority at a licensed premises. The DPS does not have to be on the premises at all times.
<b>Late TENS</b>	Late Temporary Event Notices. These refer to TENS applications received less than 10 full working days of the proposed event. If there is an objection to a late TEN, the event will be immediately vetoed. There is no option for a Licensing Sub Committee Hearing, nor to appeal against the decision.
<b>Licensable activities</b>	Licensable activities are the sale of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club, the provision of regulated entertainment and the provision of late night refreshment. Any of these activities is likely to require prior authorisation (a premises licence, a club premises certificate or a temporary event notice).
<b>Licensing authority</b>	Licensing authorities are usually local authorities, and are responsible for licensing functions under the Licensing Act 2003.
<b>Licensing objectives</b>	The Licensing Act 2003 sets out four licensing objectives which must be taken into account when a Local Authority carries out its functions. They are:  <ol style="list-style-type: none"> <li>1. the prevention of crime and disorder,</li> <li>2. public safety,</li> <li>3. prevention of public nuisance, and</li> <li>4. the protection of children from harm</li> </ol>
<b>Local Statement of Licensing Policy</b>	Section 5 of the Licensing Act 2003 requires each licensing authority to prepare and publish a Statement of its Licensing Policy every five years. Lambeth Council's current Statement of Licensing Policy received formal approval in January 2014.  The Policy has full regard to the Act, secondary regulations made under the Act and section 182 Guidance issued under S182 of the Licensing Act 2003, as issued from time to time by the Home Office.  A licensing authority may depart from its own policy if the individual circumstances of any case merit such a

Terms	Description
	decision in the interests of the promotion of the licensing objectives.
<b>Operating schedule</b>	<p>An operating schedule is required as part of an application for a premises licence or club premises certificate. the operating schedule sets out:</p> <ul style="list-style-type: none"> <li>• what licensable activities will take place</li> <li>• days of the week and hours when these will take place</li> <li>• the steps undertaken to promote the licensable activities</li> </ul> <p>If the license is granted, the information in the operating schedule becomes the conditions of the licence.</p>
<b>Review</b>	<p>The Licensing Act 2003 offers the ability to bring a premises to review where they are operating in a manner which is in contravention of one or more of the licensing objectives.</p> <p>The application for the review may be made by 'responsible authorities' such as the Police, Fire Authority, or the council's Noise team, or 'other persons', for example people who live or work near a venue and are affected by it. The individual or organisation applying for the review must demonstrate how the operation of the individual premises is in contravention of one or more of the licensing objectives.</p> <p>The application for the review will trigger a Hearing of the Licensing Committee, unless an agreement is reached by all parties on the future operation of the premises, and the Licensing authority agrees to waive the requirement for the Hearing as a result.</p>
<b>Licensing committee</b>	Licensing committees are appointed to carry out the functions of licensing authorities. They are made up of local authority councillors. The committees delegate a number of their functions to sub committees and to licensing authority officers.
<b>Section 182 guidance</b>	Section 182 of the Licensing Act 2003 provides that the secretary of state must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the act.
<b>BID</b>	Business Improvement district