

## Essential Reference Paper 'B'

### **Public consultation will take place on the draft revised policy.**

Summary of proposed changes to East Herts Statement of Licensing Policy.

The existing statement of Licensing Policy was last published in 2011, and is available in hard copy and from the website. The policy is revised at least once every three years, which will change to once every 5 years from January 2014. The proposed changes are included in the draft revised Statement of Licensing Policy.

Changes made to the language to improve readability in line with the council policy on Plain English have not been listed in the summary below.

Existing Policy Reason Section and description	Draft Revised policy Section and proposed revision
<p><b>Out of date</b></p> <p>1.2 Population Estimate</p>	<p>1.2 Update</p>
<p><b>Where as previously, conditions had to be necessary for the promotion of the licensing objectives, now they only need to be appropriate. Guidance under s 182 (October 2012) sets out best practice for conditions.</b></p> <p><u>3.4</u> Conditions will be attached to licences and certificates tailored to the individual style and characteristics of the premises and events concerned and will relate to the licensing objectives, and will be restricted to</p>	<p>3.4 Conditions will be attached to licences and certificates will;</p> <ul style="list-style-type: none"> <li>• be appropriate for the promotion of the licensing objectives;</li> <li>• be precise and enforceable;</li> <li>• be unambiguous and clear in what they intend to achieve;</li> <li>• not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;</li> <li>• be tailored to the individual type, location and characteristics of the premises and events</li> </ul>

<p>matters within the control of individual licence holders.</p> <p>Applicants are expected to write an operating schedule that shows how they will promote the licensing objectives. The operating schedule will be used as a basis for licence conditions for the individual premises.</p> <p><u>14.4</u> The Council will seek to impose only those conditions necessary to promote the licensing objectives.</p>	<p>concerned;</p> <ul style="list-style-type: none"> <li>• not be standardised, as it may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;</li> <li>• not replicate offences set out in the 2003 Act or other legislation;</li> <li>• be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);</li> <li>• not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and</li> </ul> <p>• be written in a prescriptive format.</p> <p><u>14.4</u> The Council will only seek to impose conditions that comply with clause 3.4 of this policy.</p>
<p><b>Ability for Police to impose Premises Licence conditions on TENs on Licensed Premises</b></p>	<p>New paragraph 17.7</p> <p>Where a TEN is served to permit licensable activities on Licensed Premises, the Police</p>

	<p>and Environmental Health may require that conditions on the Premises Licence shall apply to the licensable activities under a TEN</p>
<p><b>Changes to limitations on Temporary Event Notices; Notice Givers may now serve x TENs in a calendar year, or x if they are a Personal Alcohol Licence Holder. Each TEN may last for up to 168 hours (1 Week). Each premises may have up to 21 days each year when licensable activities are authorised by a TEN.</b></p> <p><b>Ability for Police to object to TENs on all grounds</b></p> <p><b>Ability for Environmental Health to object to TENs on all grounds</b></p> <p><u>17.1</u> The Licensing Act 2003 provides an exemption from the need for a licence at small scale events of no more than 499 people at a time (including staff &amp; performers) and lasting for no more than 96 hours, if 10 clear working days advance notice (not including Bank Holidays, day of receipt of the notice, or first day of the event) is given to the police and the Council. Only the police can object to a Temporary Event Notice and only if the</p>	<p><u>17.1</u> The Licensing Act 2003 provides an exemption from the need for a licence at small scale events of no more than 499 people at a time (including staff &amp; performers) and lasting for no more than 168 hours, if 10 clear working days advance notice (not including Bank Holidays, day of receipt of the notice, or first day of the event) is given to the police and the Council. Only the police and Environmental Health can object to a Temporary Event Notice and only on the basis of one or more of the licensing objectives.</p>

<p>event is likely to undermine the crime prevention objective.</p>	
<p><b>A limited number of TENS may be served late, on up to 5 working days notice. Late TENS may be rejected without appeal on receipt of an objection notice from either the police, or the Environmental Health Service, on the grounds of any of the Licensing Objectives.</b></p>	<p>New paragraph 17.6.</p> <p>Up to 3 TENS may be served late (or 5 if served by a Personal Alcohol Licence Holder, on 5 working days notice. Late TENS may be rejected without appeal on receipt of an objection notice from either the police, or the Environmental Health Service, on the grounds of any of the Licensing Objectives.</p>
<p><b>The Licensing Authority is now a Responsible Authority under the Act, and may of its own volition make representations on applications, and may make applications for Review, of Premises Licences and Club Premises Certificates.</b></p> <p><u>15.4</u> As part of the consultation process the local authority may choose to consult with other bodies or individuals that appear appropriate to help the authority determine the application. Only representations from interested parties and responsible authorities can be treated as relevant representations for the</p>	<p><u>15.4</u> As part of the consultation process the Licensing Authority in its capacity as a Responsible Authority, may choose to consult with other bodies or individuals that appear appropriate to help the authority decide on its representations about the application.</p>

<p>purpose of the Licensing Act 2003.</p>	
<p><b>‘Interested Parties’ is no longer defined, following removal of the ‘vicinity test’. The terms is replaced with ‘other persons’</b></p> <p><u>3.6</u> All relevant representations from Responsible Authorities and Interested Parties ...</p> <p><u>15.4</u> As part of the consultation process the local authority may choose to consult with other bodies or individuals that appear appropriate to help the authority determine the application. Only representations from interested parties and responsible authorities can be treated as relevant representations for the purpose of the Licensing Act 2003.</p>	<p><u>3.6</u> All relevant representations from Responsible Authorities and Other Parties ...</p> <p><u>15.4</u> As part of the consultation process the Licensing Authority in its capacity as a Responsible Authority, may choose to consult with other bodies or individuals that appear appropriate to help the authority decide on its representations about the application.</p>
<p><b>Local Authorities now have powers to implement Early Morning Restriction Orders and impose a Late Night Levy on licensed premises. The arrangements for declaring an Early Morning Restriction Order, and Home Office Guidance on the Late Night Levy, were reported to Licensing Committee on 14 March 2013.</b></p>	<p>New 24.13</p> <p>The Licensing Authority is aware of its powers to implement Early Morning Restriction Orders and impose a Late Night Levy on licensed premises. No such Orders or Levies have been implemented in the licensing Authority’s area, and any future proposals to do so will only be considered alongside a review of this policy.</p>

<p><b>Persuasive case law has re-stated the requirements that applications must comply with all formalities, and Local Authorities have no discretion to overlook or remedy slips, even minor ones.</b></p> <p><u>11.3</u> If an application is incomplete or otherwise defective, and this is discovered during the consultation period, (including the advertising requirements, see 15.3), the consultation period may be extended to allow a full 28 days consultation from the time the defect was corrected. Where defects relate to information provided to the public, the applicant may also be required to re-advertise the corrected application.</p>	<p><u>11.3</u> If an application is incomplete or otherwise defective, and this is discovered during the consultation period, (including the advertising requirements, see 15.3), you will be invited to re-submit your application. This may require you to re-advertise the re-submitted application.</p>