



HERTSMERE BOROUGH COUNCIL

LICENSING ACT 2003

Statement of Licensing Policy

2013 – 2018

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STATEMENT OF LICENSING POLICY

1. Introduction	Page 6
2. Fundamental Principles	Page 9
• Licensing Objectives	Page 9
• Secondary Objectives	Page 9
3. Consultation	Page 10
4. Licensable Activities and Main Principles	Page 10
• Operating Schedule	Page 11
5. The Licensing Objectives	Page 12
• The Prevention of Crime and Disorder	Page 12
• Public Safety	Page 14
• The Prevention of Public Nuisance	Page 15
• The Protection of Children from Harm	Page 16
6. Making an application	Page 18
• Premises Licences & Club Premises Certificates	Page 18
• Application to vary an existing licence	Page 18
• Applications for Minor Variations	Page 19
• Advertising	Page 19
• Plans	Page 19
• Serving applications on responsible authorities	Page 20
• Making a representation	Page 21
• Vicinity and Relevance	Page 21
• Personal Licences	Page 22
• Designated Premises Supervisor	Page 23
• Temporary Event Notices	Page 23
• Large Events (over 5,000)	Page 24
7. Demand, Saturation and Hours	Page 25
• Cumulative Impact	Page 25
• Special Saturation Policy	Page 26
8. Early Morning Alcohol Restriction Orders (EMROS)	Page 27
9. Late Night Levy	Page 28
10. Licensing Hours	Page 29
11. Enforcement	Page 30
12. Miscellaneous	Page 30
• Live Music, Dancing and Theatre	Page 30
• Live Music Act 2012	Page 31
• Live Music in licensed venues	Page 31
• Live Music in venues which are not licensed	Page 31
• Provision of facilities for making music and dancing	Page 31
• Further changes	Page 31
• Mediation	Page 32
• Licence reviews	Page 32
• Appeals	Page 32
• Promotion of equality	Page 33
13. Integrating Strategies	Page 33
• Hertsmere Together, Local Strategic Partnership	Page 33
• Planning	Page 34
• Building Control	Page 34

• Promotion of Cultural Strategies	Page 34
14. Delegation of Functions	Page 34
15. Further Information	Page 35
Appendix A	
Responsible Authorities	Page 36
Appendix B	
Delegation of Functions	Page 39
Appendix C	
References to Guides and Best Practice	Page 41
Appendix D	
List of Consultees	Page 42

Foreward

Hertsmere Borough Council reviewed its Statement of Licensing Policy in 2010 after conducting an extensive consultation process with the statutory and voluntary agencies, the public, residents, local businesses and the licenced trade. The reviewed and updated policy was adopted by full council and published in January 2011.

The policy was in accordance with both the Licensing Act 2003 and the statutory guidance issued by the Home Secretary that was current at the time.

The Police Reform & Social Responsibility Act 2011 amended several parts of the Licensing Act 2003. Most of the new sections relevant to the Licensing Act 2003 came into effect on 25 April 2012.

These changes made to the Act and the subsequent new guidance issued by the Home Secretary made certain areas of the Council's Statement of Licensing Policy factually incorrect and a number of web links contained in the policy had since become obsolete.

The Statement of Licensing Policy has been reviewed and updated to ensure that it is in line with the new legislation and associated guidance.

This policy was considered and approved by the Licensing Sub Committee on
and was adopted by full council on

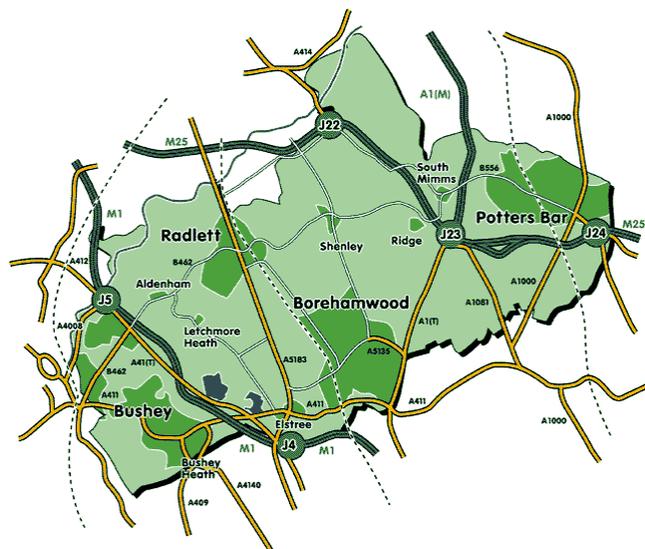
1.0 Introduction

1.1 The Borough of Hertsmere

The district was formed on 1 April 1974, under the Local Government Act 1972, by a merger of the former area of Bushey Urban District and Potters Bar Urban District with Elstree Rural District and part of Watford Rural District (the parish of Aldenham). The name 'Hertsmere' was invented for the new district by combining the common abbreviation of 'Hertfordshire' ('Herts') with 'mere', an archaic word for boundary.

Hertsmere is not an ancient Borough, although the area is certainly rich in history. The great Roman Road, Watling Street, cuts a swathe through the Borough from Elstree, through Radlett and beyond into Hertfordshire, serving to underline the fact that settled communities have existed in the area since early times.

Covering an area of around 39 square miles, Hertsmere's 100,000 (approx.) residents are concentrated in the Borough's four main towns: Borehamwood (pop. 30,000), Potters Bar (pop. 22,000), Bushey (pop. 24,000) and Radlett (pop. 8,000). In addition to these urban developments, Hertsmere boasts wide tracts (around 80%) of Green Belt countryside dotted with attractive villages; much of the land is still given over to agricultural use.



Hertsmere is the most southerly borough in Hertfordshire and is adjoined by the London Boroughs of Barnet, Enfield and Harrow to the south / southwest and by Hertfordshire's Three Rivers District Council, Watford Borough Council, St. Albans City and District Council, and Welwyn & Hatfield Borough Council to the west and north / northeast.

The Borough's location is within easy access to the A1 (M), M1 and M25 which all run through the Borough. It is this road link that makes up the Hertsmere logo  The rail network links Borehamwood/Elstree and Radlett to Kings Cross St Pancras on Thameslink in 18 – 20 minutes and Potters Bar to Kings Cross St Pancras in 20 minutes. The M25 provides good access to Heathrow, Stansted and Gatwick Airports as well as the Channel Tunnel via the M20, and the M1 provides quick access to Luton Airport.

Bushey

Largely residential, Bushey retains its village atmosphere and is centred around an attractive pond and the ancient St James' Church. The village's picturesque qualities were recognised in the last century when many eminent artists worked and lived here.

Bushey Rose Garden plays an important role in the Bushey community due its former use as an art school and the collaboration of artist, Sir Hubert von Herkomer, and landscape architect, Thomas Mawson in the design of the garden you see today.

The garden received a Highly Commended award in the Landscape Institute 2012 Awards in the Heritage & Conservation Category.

King George Recreation Ground celebrated 100 years in 2012 and is the main park in Bushey. It has received a Green Flag Award, recognising park excellence, every year since 1999.

Fishers Field in Bushey has been transformed from a former derelict allotment site to a valued nature reserve and has been awarded a Green Pennant (Community Award).

Today, Bushey is a lively place where a mix of antique shops and general stores combine to meet the needs of visitors and residents alike.

Radlett

Clustered along the line of Watling Street, there is evidence of a settlement at Radlett dating from Roman times. However, this attractive urban village really developed in the 18th century and expanded further in response to favourable road and rail connections.

Radlett is one of the most prosperous places in Britain and over the past few years, the combination of its proximity to London and good transport links have meant that Radlett has become a property hotspot.

Today, Radlett's proximity to the City via express rail links means it has become a charming residential dormitory settlement with an excellent range of shops, restaurants and pubs.

Elstree & Borehamwood

This busy small town was a hamlet until the opening of Elstree station in 1868. Today Borehamwood is probably best known for its part it played in the history of British Films, a role continued today by Hertsmere Borough Council, which saved Elstree Film Studios from virtual extinction in 1996.

Up until 1909, the town was part of the ancient parish of Elstree and the two still share a local council, Elstree and Borehamwood Town Council.

Borehamwood is home to Borehamwood F.C., Arsenal Ladies and Watford F.C. Reserves who play their home games at Meadow Park. There are several parks in the area. Aberford Park is featured with the source of the brook which has been artificially made to look like a lake. Aberford Park is also a Green Flag Award Winner

since 2009. Meadow Park includes a large playing field, tennis courts and basketball courts.

Borehamwood's modern town centre offers local shopping facilities as well as jobs in light industry, offices and the retail sector. It is the location of the BBC Studios where the famous 'Eastenders' and 'Holby City' are filmed and also Elstree Studios where 'Who Wants to be a Millionaire', 'Dancing on Ice' and Big Brother are filmed. There are many popular films to come out of the Elstree studios. Most productions are filmed on both location and in the studio, and sometimes in more than one studio, all these films can claim to have a substantial (or technically significant) part of their production filmed at Elstree. Some of the productions are Star Wars, The Empire Strikes Back, Return of the Jedi, Raiders of the Lost Ark, Who Framed Roger Rabbit, Moby Dick, Never Say Never Again, The Likely Lads...to name but a few.

Potters Bar

Originating in medieval times, Potters Bar owes its real development to the coming of the railways. In the 1920s and 30s, when the town became a favourite home for commuters, the population trebled. As a result of this rapid suburban growth, the town has two shopping areas centred on Darkes Lane and the High Street.

Easy access to the M25 has increased Potters Bar's attractiveness for commuters and it is now a lively modern town with a strong and active community.

Oakmere Park is a Green Flag award-winning park and was once the private grounds of Oakmere House. The park has a lot of history attached to it and on the night of 1 October 1916, a 'Super Zeppelin' was shot down over the park by Second-Lieutenant W J Tempest. The road that borders the park was named Tempest Avenue in his honour. The Zeppelin crashed onto an oak tree to the west of the park and the pilot and all his crew were killed.

Parkfield is also a Green Flag Award-winner since 2009, Parkfield has a variety of features including a Japanese Garden, lake and wildflower meadows. It is a natural open space and parts of it are managed as traditional hay meadow.

The four main towns mentioned above each have their own distinct identity, with very different characteristics when it comes to their respective demographics and alcohol / entertainment venues. There are also a number of picturesque rural villages within Hertsmere these include Shenley, Letchmore Heath, Aldenham and Ridge.

It should be noted that only a small number of Off Licence premises, mainly larger retail stores, have 24 hour licenses within the Borough.

Problems that can sometimes be associated with venues providing regulated entertainment e.g. noise / other nuisance, crime, disorder etc. but are relatively minor in Hertsmere. However, this is not to say such problems have not occurred in the past and may still occur in the future as isolated cases. It is the view of the Council that these problems have been minimised through effective enforcement where necessary and, elsewhere, through partnership working with venue operators and other agencies such as the police and fire services.

It is therefore the view that such arrangements will remain a cornerstone of the Council's regulatory philosophy i.e. a light touch / partnership approach for well-run, well-managed premises, but with swift and robust enforcement action against premises or designated premises supervisors where this is deemed necessary. Decisions of this nature will be in accordance with the Council's Enforcement Policy and adhere to Crown Prosecution Service (CPS) guidelines, most notably whether formal action is in the 'public interest'.

2.0 Fundamental Principles

2.1 Hertsmere Borough Council (The Council) is the Licensing Authority under the Licensing Act 2003 (The Act) and is responsible for the administration and enforcement of the Act within the borough of Hertsmere. This includes, among other duties, the granting of premises licences, club premises certificates, temporary events notices and personal licences in the borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshments. This statement has been prepared and updated in accordance with the latest provisions of the 2003 Act and the latest revised Guidance issued under Section 182 of the Act. This statement sets out policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

2.2 Licensing Objectives

The 2003 Act requires that the council carries out its various licensing functions so as to promote the following four licensing objectives.

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

The council recognises that each objective is of equal importance and that there are no other statutory licensing objectives so that the promotion of the four objectives is paramount to its considerations at all times.

2.3 Secondary Objectives

In addition, the legislation also supports a number of other key aims and purposes. The council considers these vitally important and should be principal aims for everyone involved in licensing work. They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licenced premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;

- Providing a 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; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licencing decisions that may impact upon them.

3.0 Consultation

3.1 Section 5 of the 2003 Act requires a Licensing Authority to prepare and publish a statement of its licensing policy at intervals of at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. During the five-year period, the policy must be kept under review and the Licensing Authority may make such revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory Licensing Objectives are being met. This is the fourth policy document under the provisions of the Act.

3.2 Before determining its policy for any five-year period, the Licensing Authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- The chief officer of police for the area;
- The fire authority for the area;
- Persons/bodies representative of local holders of premises licences;
- Persons/bodies representative of local holders of club premises certificates;
- Persons/bodies representative of local holders of personal licences; and
- Persons/bodies representative of businesses and residents in its area;
- Any other groups that the Licensing Authority considers appropriate.

The policy and future drafts for consultation will be placed on the Council’s website which can be found at www.hertsmere.gov.uk. Letters/emails will be sent to advise those who are considered to have an interest, informing them of this and that hard copies can be obtained on request if necessary. In addition a press release will be issued advising interested persons that the document is available for consultation.

The Council apportioned proper weight to the views expressed by the persons/bodies consulted before this Policy Statement took effect on However, it should be stressed and recognised that this Policy cannot anticipate every possible scenario or set of circumstances that may arise; consequently, so long as the Policy has been properly and carefully understood and considered, the Licensing Authority may depart from it if the individual circumstances of any case merit such a decision in the interests of the promotion of the Licensing Objectives. When doing so, the Licensing Authority will give full reasons for their actions.

4.0 Licensable Activities and Main Principles

4.1 For the purposes of the Act, the following are licensable activities:

- The sale by retail 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;
- The provision of late night refreshment.

4.2 The Act provides for four different types of authorisation to regulate the provision of these activities:

- **Personal licences** – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence;
- **Premises Licences** – to use a premise for licensable activities;
- **Club Premises Certificates** – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act;
- **Temporary Event Notices** – to carry out licensable activities at a temporary event.

4.3 Nothing in the ‘Statement of Policy’ will:

- Undermine the statutory rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, and/or;
- Override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

4.4 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and any conditions attached to licences, certificates and permissions will cover matters that should reasonably be within the control of the individual premise licence holder.

4.5 When considering these conditions, the Council will focus on the four statutory licensing objectives set out in 2.2 above, including the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

4.6 **Operating schedules**

Where required by the 2003 Act as part of an application for a premises licence, operating schedules will be expected to set out and address all those issues specified in the Guidance issued under Section 182 of the Act and including the following:

- The steps which the applicant proposes to take to promote the Statutory Licensing Objectives as set out in 2.2 above;
- The type of premises;
- The licensable activities to be provided;
- The operational procedures;
- The nature of the location;
- The needs of the local community;
- This statement of licensing policy.

- 4.7 Whilst the Licensing Authority accepts that differing needs apply to the range of premises that might be subject to a Premises Licence under the Act, it nonetheless draws attention to the importance of the four Licensing Objectives and the examples cited in the Guidance to the Act of ways in which licence holders can demonstrate support for the Objectives in their operating schedules. This can involve, for example, the provision of 'Security Industry Authority' registered door supervisors, arrangements for the protection of young people, venue drugs policies and participation in Pub/Off Watch schemes. Applicants may wish to demonstrate compliance with the Objectives in different ways in their respective Operating Schedules. This may involve taking a different approach to an issue compared with the advice contained in the Guidance. If so, the Council will expect applicants in their Operating Schedules, to demonstrate that their amended proposals are at least as effective as those advised in the Guidance. Further examples of matters appropriate for operating schedules are detailed in the sections dealing with the four licensing objectives below.
- 4.8 Where the responsible authorities and other persons do not raise any relevant representations about an application made to the Licensing Authority, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule and any mandatory conditions prescribed in the 2003 Act itself.
- 4.9 The Licensing Authority may not impose any additional conditions unless its discretion has been engaged by a relevant representation and it has been satisfied, at a hearing, that it is appropriate to impose conditions due to the representations raised. It may then only impose conditions it considers appropriate to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants to consult with responsible authorities when schedules are being prepared. This would allow for proper liaison before representations prove necessary.
- 4.10 The Licensing Authority may have regard to conditions set out by the Home Office 'Supporting Guidance – Pools of Conditions'. Under no circumstances will the Licensing Authority regard these conditions as standard conditions to be automatically imposed in all cases.

5.0 Licensing Objectives

The Prevention of Crime and Disorder

- 5.1 The Licensing Authority is committed to reducing crime and disorder across the borough of Hertsmere through its statutory duty under the Crime and Disorder Act 1988 and its links with the Community Safety Partnership. In addition, the Licensing Authority is committed to further improving the quality of life for the people of Hertsmere by continuing to reduce crime and the fear of crime. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003, the Guidance issued under section 182 to the Act and this policy. The Council will give 'due regard' to all possible implications and its Licensing Sub-Committee will always consider all

the information available and relevant representations made, including those from the public and the responsible authorities.

- 5.2 In their role as a responsible authority, Hertfordshire Constabulary are an essential source of advice and information on the impact and potential impact of licensable activities in the borough, particularly on the crime and disorder objectives. The police have a key role in managing the night-time economy and usually have good working relationships with those operating in the local area. The Council recognises that Hertfordshire Constabulary are the Licensing Authority's main source of advice on matters relating to the prevention of crime and disorder, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The Council will accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject to at a hearing.
- 5.3 Licensed premises, especially those offering late entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Council will expect Operating Schedules submitted with applications to satisfactorily address these issues, from the design of the premises through to the daily operation of the business, including the presence of a personal licence holder on the premises if the premise is open after 23:00. While this may be more applicable to premises where alcohol is consumed, it is also something that off licence premises are also positively encouraged to adopt where relevant. A responsible person with a recognised qualification is often a great asset in managing the more difficult situations that may arise around and after that time. The use of Security Industry Authority door supervisors in suitable numbers should also be actively encouraged especially where late night musical entertainment is provided. This particular entertainment seems to attract larger audiences and give greater potential for disturbance. Those who sell late night refreshment may also wish to consider using such suitably licensed persons as they often form a gathering point after a night out.
- 5.4 The Licensing Authority will look to work in partnership with Pub/Off Watch Schemes within the borough, supporting licence holders to actively prevent crime and disorder issues and to form strategies to reduce current levels. Strategies which would normally derive from such schemes, address matters such as underage sales, problems associated with drunken individuals/behaviour, prevention of the use of drugs and violent and anti-social behaviour etc. The active membership of a Pub/Off Watch Scheme is positively encouraged as it is seen as an indication of responsible management and useful in reducing nuisance and public disorder.
- 5.5 In the interests of Public Safety and the Crime and Disorder Licensing Objectives, the Licensing Authority may require, in certain circumstances, that the use of toughened drinking glasses or polycarbonate composition (or similar) be used. In regard to bottles, premises may also be required to use plastic rather than glass bottles. The use of glassware in alcohol-related violence is a particular concern. Glasses and bottles used as weapons can intimidate victims, bar staff or bystanders and cause serious injuries. As a blunt weapon, for instance an intact bottle or glass can cause

significant physical damage. When glass is broken and used as a sharp weapon, the potential damage is hugely increased. Glass-inflicted injuries to the eyes and face often require stitches or surgery and can result in heavy blood loss and even loss of sight.

- 5.6 The use of CCTV both inside and outside the premises can play an important role in combating crime and disorder. It is encouraged that the CCTV shall operate at all times while the premises remains open to the public and during dispersal, all images captured are to be recorded and stored on site for a minimum period of 31 days and made available to the police and/or the licensing authority upon request. The images should also be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises and where possible/practicable, the images should be in colour for better recognition.
- 5.7 The CCTV system should be registered with the Office of the Information Commissioner (ICO). www.informationcommissioner.gov.uk failure to do so could lead to prosecution by the ICO.
- 5.7 Applicants will be expected to identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective in their particular case. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.
- 5.8 Applicants are expected to seek advice, where necessary from Council Licensing Officers and Hertfordshire Constabulary, as well as taking into account, as appropriate, local planning and transport policies and crime prevention strategies when preparing their plans and schedules.
- 5.9 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty, as detailed in paragraph 5.1, under Section 17 of the Crime and Disorder Act 1988 to do all it reasonably can to prevent crime and disorder in the borough. The Council will also consider attaching conditions to deter and prevent crime and disorder within the vicinity, if relevant representations are received. Whether or not incidents can be regarded as being in the vicinity of licenced premises is a question of fact and will depend on the particular circumstances of the case.
- 5.10 The Council recognises that the Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night time economy in town centres.

Public Safety

- 5.11 Members of the public have the right to expect when visiting licensed premises that due consideration has been taken with respect to their physical safety. Premise Licence Holders as providers of premises for the sale of alcohol, late night refreshment or regulated entertainment must be able to demonstrate that they have

considered and put into effect measures to protect members of the public and the commercial interests of neighbouring premises.

- 5.12 The Licensing Authority is committed to promoting public safety across the Borough by working in close partnership with Hertsmere Borough Council's Environmental Health Team, Hertfordshire Constabulary, Hertfordshire's Fire Protection and Premise Licence Holders / DPS'.
- 5.13 Most premises are subject to a range of legislative requirements and regulatory regimes such as the Health and Safety at Work Act and Fire Safety legislation aimed at protecting public safety. The Licensing Authority will consider attaching conditions to licenses to promote public safety but does not intend to duplicate requirements of existing statutory requirements of existing statutory provisions. However, premises will be expected to ensure a level of compliance that promotes public safety such as ensuring that customers are not be permitted to sit or stand in gangways or aisles or in any position that will impede means of escape from the premises therefore ensuring that all means of escape will be unobstructed, immediately available and clearly identifiable.
- 5.14 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.
- 5.15 Where applicable, the Licensing Authority supports measures designed to promote public safety and may consider the attachment of the mandatory condition to a licence requiring the use of Door Supervisors, licensed by the Security Industry Authority to control the access and egress from the premise during events.
- 5.16 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their Operating Schedule, Health and Safety and Fire Safety Risk Assessments and the steps which will be taken to ensure public safety.

Prevention of Public Nuisance

- 5.17 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of disturbances impacting upon people living, working or sleeping in the vicinity of the premises or wider afield.
- 5.18 Noise disturbance can arise from entertainment or activities held within licensed premises and also from people or motor vehicles outside licenced premises. The Licensing Authority will expect Operating Schedules to address these issues. Advice and guidance can be obtained from Licensing Officers or the Council's Environmental Protection Team. If representations are received, the Licensing Authority may utilise appropriate conditions to control noise disturbance and the use of such conditions will depend upon the activities/entertainment/hours of operation proposed; the nature of the locality; and existing ambient noise levels.

Noise control conditions may include:

- satisfactory sound insulation;
- sound limiting devices;
- acoustic lobbies;
- measures taken or proposed to be taken to prevent unreasonable disturbance by customers and staff arriving and departing from the premises and the delivery of goods and services;
- restrictions on times when music or other licensable activities may take place;
- exit doors save for ingress and egress be kept closed while regulated entertainment is being provided;
- notices to be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly;
- where necessary, it may be appropriate to include measures in an overall noise management plan, further guidance can be obtained from Licensing officers or the Environmental Protection team.

5.19 Patrons may no longer smoke inside licensed premises and consequently may go outside to smoke whether this is in the open or in a smoking shelter. Applicants and existing licence holders are encouraged to assess whether the noise from such patrons could potentially disturb nearby residents and whether there is potential for smoke to drift to nearby residential properties. Applicants may wish to impose a time restriction on the use of the gardens and other open-air areas. Whilst there is no legal obligation to provide smoking shelters, where these are provided or proposed, Licence holders should consult guidance to ensure that smoking shelters conform to the Health Act 2006 and also ensure that appropriate planning consent is obtained. Applicants and existing licence holders are encouraged to ensure that if the area where smoking takes place is on the public highway, that it is regularly cleaned to ensure that all discarded cigarette butts are removed and properly disposed of.

5.20 The Licensing Authority will consider attaching conditions to licences to prevent public nuisance, but will seek to avoid duplication with the requirements of other regulatory regimes.

Protection of Children from Harm

5.21 Protecting children from harm is one of the fundamental licensing objectives. The Licensing Authority will endeavour to ensure that issues relating to the protection of children are fully taken into consideration by all parties involved in the licensing system. 'Children' for these purposes means anyone under the age of 18.

5.22 While the 2003 Act does not prohibit children from having free access to any licenced premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm for example, by restricting access by children to certain types of drinking establishments after a specified time. Clearly, each venue will vary on this matter depending on the type / use of those premises, but the Licensing Authority perceive that the presence of

children in certain types of premises late into the evening may not satisfy the protection of children from harm objective, albeit each case will of course be considered on its own merits.

In particular, the following are examples of situations that may give rise for concern where:

- there have been previous convictions for serving alcohol to minors or with a reputation for underage drinking;
- there is a known association with drug taking or dealing;
- there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of cash prize gaming machines);
- entertainment of an adult or sexual nature is commonly provided;
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

5.23 Following relevant representations, the Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children. In addition to the mandatory condition regarding age verification, other conditions can include, for example:

- Limitations on the hours when children may be present (partial exemption may be appropriate if partaking in a substantial meal or at an organised function);
- Restrictions on parts of the premises to which children may have access;
- Age limitations (for those below 18 years of age);
- Limitations or exclusions for all or part of the premises when certain activities are taking place;
- Requirements for an accompanying adult;
- Full exclusion of people under 18 from the premises when particular licensable activities are taking place.

Hertfordshire County Council (HCC), Safeguarding Children Board are recognised as being competent to advise on matters relating to the protection of harm

5.24 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will remain a matter for the discretion of the individual licence holder.

5.25 The law specifies that people between the ages of 16 and 18 can drink wine, beer or cider when accompanied by an adult during a table meal and that the alcohol is purchased by an adult.

- 5.26 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror, violence or a sexual nature that may be considered unsuitable for children within certain age groups. Where films are shown, licensees will be expected to have procedures in place and identified in the Operating schedule to prevent children from viewing films that are unsuitable because of the age classification imposed by the British Board of Film Classification or in specific cases, the Local Authority. Films requiring approval from the Licensing Authority should be presented to the council at least 28 days before the proposed date of screening.
- 5.27 Where children go to see and/or take part in entertainment arranged especially for them, for example children's film shows or pantomimes, there should be additional arrangements in place to safeguard them while on the premises. There should be suitable arrangements to ensure their safe access and egress, having regard to the size of the venue, the number and ages of children present and the type of activity. In particular, a suitably competent adult member of staff should be stationed in the vicinity of each of the exits from any level, subject to there being a minimum ratio of staff to children as may be specified.
- 5.28 Access to the internet 'on the go' is now an integral part of many people's lives, however to ensure that children are protected when they access content outside the home, it is encouraged that any wifi available in licensed premises is filtered to block any access to inappropriate adult websites.

6.0 Making an application

- 6.1 The Council will ensure that all relevant information is available on how to make applications for licences and other permissions under the Act. A full list of responsible authorities and their appropriate contact details together with all relevant application forms and guidance are available on the council's website and also by contacting the Licensing team. Online applications can be made through the council's website using the government's GOV.UK portal.

Premises Licences and Club Premises Certificates

- 6.2 A premise licence or club premises certificate is required where regulated activities are regularly taking place. An application for a premise licence or club premises certificate must be made in the prescribed manner and include a scale plan of the premises and the relevant fee.
- 6.3 The application forms for premises licences and club premises certificates (new and variations) require the applicant to state in their operating schedule the additional steps they will take to promote the licensing objectives. Applicants are reminded that any information contained within the operating schedule may be converted into enforceable conditions of licence and this will occur even where there is no hearing.

Applications to vary an existing licence

- 6.4 Where a premises licence holder or club premises certificate holder wishes to amend their licence, in most cases the licence holder may make an application to 'vary'

rather than apply for a 'new' premise licence or club premises certificate. However, a variation application cannot be made to extend the period for which the licence has effect (i.e. where there is a time limited premises licence) or vary substantially the premises to which it relates. 'Substantially' is not defined in the Act or Guidance, but this Licensing Authority takes it to mean 'large or considerable' and this will ultimately depend upon the individual circumstances of the case. Normally an application for extended hours would be expected to be made by way of an application for a variation. The application to vary should be made in the prescribed way, accompanied but the fee applicable and, in the case of changes to structure or layout, a plan.

Applications for Minor Variations

- 6.5 Changes may be made to a premise licence or club premises certificate through the Minor Variation process. The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. Such changes could include small changes to the structure or layout of a premise, revisions, removals or additional conditions, the addition of authorisation for late night refreshment/regulated entertainment or small changes to licensing hours. Variations to extend licensing hours for the sale or supply of alcohol between the hours of 23:00 and 07:00 or to increase the amount of time on any day during which alcohol may be sold or supplied must be treated as a full variation. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to all responsible authorities and it attracts a lower fee than for a major variation. The applicant must however, display a notice on the premises in accordance with regulation for a period of '10 working days'. The application must be in the prescribed form with a plan, if applicable. Upon receipt of such an application; the Licensing Authority must consider whether the variation could impact adversely on the licensing objectives and if so, it can consult any of the responsible authorities it deems necessary. Decisions on Minor Variations are delegated to licensing officers at this authority as recommended by the Government.

Advertising

- 6.6 Applicants must comply with the Licensing Act 2003 Regulations when advertising their applications for a premise licence, club premises certificate or variation by displaying a brief summary of the application on a blue A4 sized notice immediately on or outside the premises on the day the application is submitted to the Licensing Authority and copied to all responsible authorities. Furthermore a notice must be published in a local newspaper or, if there is none, in a local newsletter, circular or similar document circulating in the area in which the premises are situated. This must be carried out on at least one occasion during the period of '10 working days' starting on the day after the day on which the application was given to the Licensing Authority. If any advertising irregularities are found, the advertising period may be required to begin again or the application may be rejected.

Plans

- 6.7 Where appropriate, the plan for the premises should be included as part of the application including copies sent to the responsible authorities. Plans do not need to be to any particular scale, but they must be in a format which is 'clear and legible in

all material respects', i.e. they must be accessible and provide sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information:

(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 (b), the location of escape routes from the premises;

(d) in a case where the premises is used for more than one existing licensable activity the area within the premises used for each activity;

(e) in a case where an existing licensable activity relates to the supply of alcohol, the location or locations on the premises which is or are used for consumption of alcohol;

(f) fixed structures (including furniture) or similar objects temporarily in a fixed location which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;

(g) 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;

(h) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;

(i) in a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;

(j) the location and type of any fire safety and any other safety equipment; and

(k) the location of a kitchen, if any, on the premises.

The plan may include a key of symbols to illustrate the above on the plan, but there is no requirement to do so.

- 6.8 Details of all new applications, variations and reviews are detailed on the council's website together with scheduled hearing dates and the results of each application.

Serving Applications on Responsible Authorities

- 6.9 New applications or applications to vary premises licences or club premises certificates must be made to the Licensing Authority in writing with copies and any supporting documentation to be served on each of the responsible authorities. This can be carried out either electronically or by post. A list of the responsible authorities can be found in Appendix A.

Making a representation

- 6.10 Responsible authorities and ‘any other person’ may make representations on applications for premises licences or club premises certificates, or variations of such licences. The grounds for making a representation must be relevant to at least one of the four licensing objectives. Only the police can make a representation to the transfer of a premise licence, variation of a Designated Premise Supervisor or a personal licence. Both environmental health and the police can object to a Temporary Event Notice (TEN) under any of the licensing objectives.
- 6.11 Representations must be made in writing and must be received by the Licensing Authority within the statutory consultation period (28 days). Any representations received after the close of consultation cannot be considered, save in exceptional circumstances.
- 6.12 Representations to an application may be positive or negative, although only negative representations would result in a Licensing Sub-Committee hearing for the determination of the application.

Vicinity and relevance

- 6.13 The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to mean that any person may make a representation regarding a premise licence or club premises certificate application and that their representation should not be excluded based merely on the distance they live or work from a premises. The representation must, however, be relevant to at least one of the licensing objective and must not be frivolous or vexatious. The vast majority of individuals making representations are persons residing or persons involved in a business within the vicinity of that licensed premises. In making a decision as to what weight to attach to a relevant representation, the Licensing Authority may consider whether the individual is likely to be directly affected by disorder or disturbance occurring or potentially occurring on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration. However, each representation will be judged on its own merit.
- 6.14 Upon receiving a representation, officers of the Licensing Authority may assess whether the application is likely to have any effect on the individual making the representation. If the grant of the licence is considered to have absolutely no implications for the individual making the representation, then officers may choose to consult with the Chair of the Licensing Committee and legal advisors. The outcome of the consultation may result in the representation not going before the Licensing Sub-Committee.
- 6.15 In borderline cases, the benefit of doubt will be given to the person making the representation which will be included in the agenda for the Licensing Sub-Committee to determine what weight, if any, to apportion to it.

Personal Licences

- 6.16 Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence. First-time applications are made to the Licensing Authority for the area in which the applicant is normally resident. Thereafter, this Licensing Authority becomes the “Relevant Licensing Authority” for that licence, even though the licence holder may move out of the area or gain employment elsewhere. Licence holders will need to return to their “Relevant Licensing Authority” to renew their personal licence after the 10 year validity period.
- 6.17 Application must be made in the prescribed manner, accompanied by the relevant fee, original or a certified copy documentary evidence of qualifications, search results or certificate relating to criminal convictions (obtained within the last calendar month) and a declaration in respect of criminal convictions for relevant or foreign offences. Two recent passport sized photographs should be submitted, one of which is endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, person of standing in the community or any individual with a professional qualification.

The Licensing Authority will grant a personal licence if it appears that:

- a) the applicant is over 18;
 - b) the applicant possesses a relevant licensing qualification;
 - c) the applicant has not forfeited a personal licence in the previous five years beginning with the day the application was made;
 - d) the applicant has not been convicted of any relevant offence as defined in the Act;
 - e) the appropriate fee has been paid.
- 6.18 The issues, which arise when the holder of a personal licence becomes associated directly with a particular premises covered by a premises licence by becoming the ‘designated premises supervisor’ for those premises, are dealt with below. The Licensing Authority will not consider these matters when considering an application for a personal licence.
- 6.19 In order to substantiate whether or not an applicant has an unspent conviction for a relevant offence, applicants will be required to produce a criminal conviction certificate, a criminal record certificate or similar.
- 6.20 The Licensing Authority will liaise closely with Hertfordshire Constabulary when an applicant is found to have an unspent conviction for any relevant offence as defined in the Act. Where an applicant is found to have an unspent conviction(s) for a relevant or foreign offence and the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before the Licensing Sub-Committee. At this hearing, the applicant may bring with them evidence e.g. character references supporting their application and they may be represented by a solicitor or supported by a ‘friend’.
- 6.21 If an application is refused for any reason, the applicant will be entitled to appeal to the courts against the decision. Similarly, if the application is granted despite a

police representation, the Chief Officer of Police is entitled to appeal against the Licensing Authority's determination. The Licensing Authority will therefore record full reasons for any decision that they make.

- 6.22 Personal licence holders must be aware that they have a duty to notify the Licensing Authority of any changes in regard to personal details i.e. change of address or name, if they have been convicted of any relevant offence or of the theft or loss of licence. They also have a duty to inform the court that they hold a personal licence should they be prosecuted for any offence.

Designated Premises Supervisor

- 6.23 The main purpose of the appointment of a 'designated premises supervisor' (DPS) is to ensure that there is always one specified individual who has been given day to day responsibility for running the premises by the premises licence holder and ensuring that the licensing objectives are discharged, that licence conditions are observed and that current best practice is followed.
- 6.24 The DPS will therefore occupy a pivotal position. The DPS will usually be in a position to provide direct management supervision of the premises and to be regularly on the premises during trading hours. By identifying the DPS in the premises licence, it will be clear to the Licensing Authority, the police, other agencies and customers who is in day-to-day charge of the premises.
- 6.25 When not available on the premises for a period of time i.e. holidays etc., the DPS should nominate and brief a competent, authorised 'person in charge' to act in their absence. The DPS is expected to give such delegation in writing to confirm this and it is expected that the nominated person will normally be a personal licence holder.
- 6.26 The police may object to a DPS where, in exceptional circumstances, they believe that the appointment would undermine the "crime prevention" objective. Where the police do object, the Licensing Authority must arrange for a hearing at which the issue can be considered. Either party then has a further right of appeal at magistrates' court if they disagree with the determination of the Licensing Sub-Committee.

Temporary Event Notices

- 6.27 Temporary event notices are a quick and easy method for obtaining temporary permissions to sell alcohol and/or provide entertainment or late night refreshment (LNR) (hot food or drink between 11pm and 5am). A temporary event notice is required to be given for the use of a premises or an area for one or more licensable activities which may involve the sale of alcohol, regulated entertainment or LNR which are not authorised by a Premises Licence or Club Premises Certificate. Examples may include but are not limited to: Beer tents and outside bars, alcohol 'given away' with the purchase of another item (i.e. free glass of wine with an entry ticket or paid meal), playing music, boxing and wrestling etc.
- 6.28 The most important aspect of the system of permitted temporary activities is that no authorisation as such is required for these events from the Licensing Authority. The process involves notification of an event to the Licensing Authority, the police and

the environmental health department. Only the police and environmental health may intervene to prevent such an event from taking place or to agree a modification of the arrangements for such an event. The Licensing Authority may only ever intervene itself, if the limit on numbers of events is exceeded. Otherwise, the Licensing Authority is only required to issue a timely acknowledgement. Temporary Event Notices (TEN) can be used by individuals to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time, including any staff, organisers or performers and lasting for no more than 168 hours (7 days).

- 6.29 For a 'Standard' TEN, the premise user must, no later than 10 clear 'working' days before the day on which the event is to start and not including the day of the event, give a notice to the Council's Licensing Unit together with the prescribed fee and on the same day, a copy to the Police and another to Environmental Health. The Police and/or Environmental Health may submit an objection notice to the TEN if satisfied that any licensing objective would be undermined. Where a Police or Environmental Health objection notice is received, the Licensing Authority will hold a hearing to consider the objection. If the TEN is in connection with licensed premises, the Licensing Sub Committee may impose one or more of the existing licence conditions as long as they are not inconsistent with the event.
- 6.30 It is recommended in general, that the Licensing Authority, Police and Environmental Health be given at least 28 calendar days' notice of any event, to allow them to help organisers plan their events safely.
- 6.31 To accommodate events where organisers have only had a very short period to prepare or for reasons outside of their control, have to alter the venue or date of a planned event, changes to the Act have established a 'Late' TEN. These are intended for exceptional circumstances. The notice period is reduced to 5 clear working days. However, if there is an objection from either the Police or Environmental Health, the event will not go ahead because there is no scope for a hearing.
- 6.32 The Council have an established 'Safety Advisory Group' (SAG) comprising of representatives from the emergency services and other statutory agencies such as the highways authority, to advise and co-ordinate planning for public events in the Borough, whether or not a premises licence or a temporary event notice is needed. As recommended above, organisers of temporary events are strongly advised to contact the Council's Licensing Officer for advice at the earliest opportunity when planning events. Where necessary, the advice of the 'Safety Advisory Group' can be obtained, or discussions held with the Police and Environmental Health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.

Large events (Events attended by over 5,000 persons)

- 6.33 Organisers of festivals or concerts who require a temporary premises licence are strongly advised to contact the Licensing Authority at least 6 months prior the event taking place, although there is no statutory requirement to do so. Whilst a premises licence could be granted after 28 days of the application being served, applicants should be aware that the processing time for an application that has received relevant representations can be up to 2 months. Organisers should also have early

discussions with responsible authorities such as the Police, Environmental Health and Fire Protection.

7.0 Demand, Saturation and Hours

7.1 In accordance with the Government's guidance, Hertsmere Borough Council recognises that demand is not a relevant criterion in considering an application under the Act.

Cumulative Impact

7.2 Views have to be taken, as part of the consultation process, as to the effect an expansion of licensing may have on any one area. The matter of 'need' for an additional facility, whether pub, club etc., is not covered by this policy. This will be a matter for planning policies and strategies and for the market as a whole.

7.3 "Quotas" will not be imposed in any circumstances. However, it is possible to consider the overall "cumulative" impact. This may have an impact on the number of licensed premises in any given area.

7.4 There are, therefore, a range of approaches which may be used to address issues of cumulative impact. Some will lie within the controls provided by the Licensing Act and others will not. They include:-

- Planning Controls
- Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other local authority departments
- Application of the powers of the Licensing Authority to designate parts of the area as places where alcohol may not be consumed in public.
- The confiscation of alcohol from adults and children in designated areas.
- The power of the Local Authority Chief Executive to close noisy licensed premises to prevent a public nuisance for up to 24 hours under the provisions of the Anti Social Behaviour Act 2003;
- Application of police powers to instantly close for up to 24 hours, any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder, or excessive noise emanating from the premises.
- Application of powers of the police, other responsible authorities, local residents or businesses to seek a review of the licence or certificate in question.
- Use of closed-circuit television (CCTV).
- Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices.

- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
 - Early Morning Alcohol Restriction Orders (EMROs)
- 7.5 However, in the absence of success with any of the above the Council may have to turn to a Special Saturation Policy, as outlined below.
- 7.6 It should be stressed that the adoption of any special policy will be treated as a ‘last resort’, and then only after careful consideration and consultation upon whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
- 7.7 The effect of adopting a special policy of this kind is to create a reputable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special policy issues in their operating schedules in order to rebut such a presumption.
- 7.8 However, the Council wishes to stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to the special policy. If no representation were received, it would remain the case that any application may be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities or interested parties can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and / or nuisance, and referring to information that had been before the Licensing Authority when it developed its statement of licensing policy.

Special Saturation Policy

- 7.9 The Special Saturation Policy (SSP) will only be used in circumstances where it has been demonstrably shown it is necessary to do so i.e. that the cumulative impact of licensed premises which may include off licence premises in a clearly defined geographical area is such that one or more of the licensing objectives is being compromised and so, therefore, the addition of further premises will add to the cumulative impact in that area.
- 7.10 In determining whether the SSP needs to be applied in an area the Council will consider representations based on the impact on the Licensing Objectives if a particular application were to be granted. The onus would be on the responsible authorities / interested parties to provide the evidence base for the assertion that the addition of the premises in question would produce the suggested impact(s) on the Licensing Objective(s) in question.

- 7.11 The SSP is not absolute, and so each application will be considered properly on its own merits, and where further licence premises are unlikely to add significantly to the cumulative impact on the Licensing Objectives, the licence will be granted.
- 7.12 Nothing in the SSP imposes quotas of premises or licences in an area, nor does it include provisions for a terminal hour in a particular area.
- 7.13 The Council's starting point will be in terms of seeking a reduction in crime and disorder, as is consistent with the Licensing Objectives contained within The Licensing Act 2003 and with the Council's statutory duty under section 17 of the Crime and Disorder Act 1998. Similarly, there will be an equal focus in improving the local amenity of an area through the reduction of nuisance and anti-social behaviour, as is also consistent with the promotion of the Licensing Objectives.
- 7.14 Where it has been demonstrably shown to the Council that the addition of further licensed premises will add to the cumulative impact of all premises in a clearly defined geographical area, the Licensing Authority will not grant further licences that seek to increase the total capacity of premises licensed to sell alcohol for consumption on the premises and / or provide regulated entertainment, and off licensed premises unless the application is to replace other so-licensed premises.
- 7.15 Variations to extend operating hours (other than for occasional variations) will not normally be granted if the application is with a view to increasing the capacity limits of the premises.
- 7.16 As stated above, each case will be determined on its own merits. To this end, licences may be granted if an applicant can reasonably demonstrate that a positive reduction in crime and disorder will result, or that it will not increase. Likewise, the same applies in the case of nuisance.
- 7.17 If adopted, the special policy will be reviewed regularly to assess whether it is needed any longer or, conversely, needs expanding. While any special policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.
- 7.18 At the time of creating this policy, there was insufficient evidence to warrant the adoption of a saturation policy due to the cumulative impact of licensing in any specific area in Hertsmere. It may be that in the future the Licensing Authority do receive sufficient evidence and will have to adopt a special policy to address the saturation effect.

8.0 Early Morning Alcohol Restriction Orders (EMROS)

- 8.1 An Early Morning Restriction Order (EMRO) is there to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance and any other instances of alcohol-related anti-social behaviour which is not directly attributable to a specific premise.
- 8.2 The EMRO can apply to the whole or part of the Licensing Authority and if the Licensing Authority already has a Cumulative Impact Policy (CIP) in its Licensing Policy Statement, it should consider the relationship between the CIP and the

proposed EMRO area and the potential overall impact it will have on its local licensing policy.

- 8.3 An EMRO allows Licensing Authorities to restrict sales of alcohol in the whole or part of their area for any specified period between 12 midnight and 6am, if they consider this appropriate for the promotion of the licensing objectives. This will have the effect of overriding any premises licences, club premises certificates and temporary event notices allowing later licensing hours. The EMRO would not apply on New Year's Eve, the supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation.
- 8.4 The Licensing Authority has discretion to determine the area to be covered by an EMRO, this may be an individual street or part of a street, the days and times it shall apply (at any time between midnight and 6am) and whether it should be imposed for a limited period only.
- 8.5 The Licensing Authority will need to be satisfied that an EMRO is appropriate for the promotion of the licensing objectives in a particular area and any proposal order would have to be advertised on its website and local newspaper as well as notifying all affected businesses. A hearing must also be held to consider any representations before making such an order.
- 8.6 The Government have made it clear that this course of action should be a weapon of last resort and that Licensing Authorities should consider specific measures against individual premises causing a problem before deciding to impose an EMRO.
- 8.7 If adopted, the Licensing Authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it.
- 8.8 At the time of creating this policy, there was insufficient evidence of alcohol-related crime and disorder, serious public nuisance or alcohol-related anti-social behaviour within Hertsmere to demonstrate the need for such an order to be in existence.

9.0 Late Night Levy

- 9.1 The late night levy is a power for Licensing Authorities to introduce an additional charge on top of the annual charge for premises that have a late alcohol licence and is restricted to being applied between the hours of 12 midnight and 6am, the levy would apply to the whole local authority area.
- 9.2 The decision as to whether or not to implement the levy will be left entirely at the discretion of each Licensing Authority who will make the decision based on the situation in their local area. In areas where it is introduced, the levy will be collected annually and the revenue will be split between the Licensing Authority and the Police. The amount of the levy, as set by the UK Government, will be a yearly amount between £299 and £4,440. This amount will depend on the rateable value of the premises and whether the premises primarily or exclusively are used to sell alcohol for consumption on the premises.

- 9.3 After deductions for administering the levy, the rate of the split is 30% being retained by the Licensing Authority and 70% being given to the Police. The Licensing Authority are required to spend their portion on tackling alcohol related crime and disorder, however the police do not have to spend their proportion of the levy in the local area where it has been collected or on policing associated with alcohol related crime and disorder.
- 9.4 Where the Licensing Authority decides to apply the levy, it will affect all 'on' and 'off' licensed premises that are licensed to sell alcohol during the hours to which the levy applies.
- 9.5 At the time of creating this policy, Hertsmere Borough Council have not adopted a Late Night Levy or Early Morning Restriction Order (EMRO)

10.0 Licensing Hours

- 10.1 The Government has acknowledged that statements of licensing policy should recognise that differing licensing hours with regard to the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport that lead to disorder and disturbance. The Government also want to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies, which are important for investment and employment locally and attractive to domestic and international tourists, without compromising the ability to resource local services associated with the night-time economy. Similarly, providing consumers with greater choice and flexibility is an important consideration.
- 10.2 Conversely, however, the Council recognises the potential for additional crime and disorder and / or public nuisance arising from extended licensing hours. Consequently, the Council will, where necessary, scrutinise very carefully applications for extended licensing hours and, if representations are received, will seek to attach any necessary licence conditions for the promotion of the Licensing Objectives. For example, stricter conditions with regard to noise control will be expected in areas that have denser residential accommodation, but this should not limit opening hours without regard to the individual merits of any application.
- 10.3 With regard to shops, stores and supermarkets the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for business, unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of isolated shops known to be a focus of disorder and disturbance because youths congregate there and engage in nuisance and anti-social behaviour, including trying to pressurise shop staff to make unlawful sales of alcohol.
- 10.4 Where relevant representations are made by a responsible authority (particularly the police) or other persons concerning applications for premises licences for such places, or in connection with existing licences, the Licensing Authority may consider a restriction on opening hours as one mechanism of combating such problems if this would be appropriate.

- 10.5 The term “zoning” is used in the Guidance to refer to the setting of fixed trading hours within a designated area. Zoning is not provided for by this policy because it is suggested that it can lead to the significant movement of people across zone boundaries in search of premises opening later and puts greater pressure on town and city centres than is necessary. Zoning can result in greater disturbance in the streets at particular times and concentrations of disturbance and noise. It also assumes that the representations of residents in one area could be treated less favourably than those in other areas. It also undermines a principle on which the 2003 Act is based: the avoidance of fixed and artificially early closing times which produce peaks of disorder and disturbance on the streets when a majority of customers emerge simultaneously.

11.0 Enforcement

- 11.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act and the Licensing Authority will make arrangements to monitor premises.
- 11.2 The Licensing Authority will work closely with all other statutory bodies to establish protocols to ensure an efficient deployment of all personnel engaged in enforcing licensing law and inspecting licensed premises in order to ensure that resources are targeted at problem and high risk premises, whilst ensuring that all licensed premises meet the required standards. Failure to maintain compliance will result in action being taken in accordance with the Council’s relevant Enforcement Policies.
- 11.3 The targeting and inspection of premises will be based upon these protocols and, in addition, driven by complaints about specific premises. This also includes the targeting of inspections towards events being operated under the terms of a Temporary Event Notice (TEN). However, there is also an inspection programme that seeks to visit and inspect premises dependent on their perceived risk. For example, high capacity, late night, entertainment venues are likely to be inspected more frequently whereas smaller premises used very infrequently, not providing alcohol / regulated entertainment may not warrant a formal inspection unless they are the subject of complaint. However, the use of the premises is not the only factor to be taken in to consideration when judging the risk posed; equally, and sometimes more importantly is the management of those premises i.e. the previous experience / qualifications of the Designated Premises Supervisor, the systems and procedures in place to ensure adherence to the operating schedule and compliance with licence conditions.
- 11.4 All these factors and any others where necessary, are taken into account when developing the risk-based inspection programme. In any event, the over-riding consideration will be the specific merits of individual premises rather than trying to ‘pigeon-hole’ categories of premises for inspection at arbitrary time intervals.

12.0 Miscellaneous

Live Music, Dancing and Theatre

- 12.1 The Council recognises that as part of implementing Local Authority cultural strategies, proper account should be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally. This 'promotion' naturally extends to non-traditional forms of music, including singing. Indeed, this also extends to areas that may fall outside the Act's definition of 'regulated entertainment' e.g. comedians, children's entertainers and physical performance artists such as jugglers and mimes.

Live Music Act 2012

- 12.2 The Live Music Act received Royal Assent in March 2012 which made changes to the Licensing Act 2003 from 1 October 2012.

Live music in licensed venues

- 12.3 Live music will cease to be regulated entertainment in venues licensed for the sale of alcohol for consumption on the premises in the following situations:

- when it is unamplified and takes place between 8am and 11pm; and
- when it is amplified and takes place in the presence of an audience of 200 persons or less and is provided between 8am and 11pm.

The premises must be open for the sale of alcohol during the time that the live music is provided for the exemption(s) to take effect. Additionally, any condition attached to the Premises Licence relating to live music ceases to have effect in respect of the live music unless the Licensing Authority states otherwise on the licence pursuant to a review hearing.

Live music in venues which are not licensed

- 12.4 For those premises which are not licensed for alcohol sales, the Live Music Act states that live music is not regulated entertainment when it is unamplified and takes place between 8am and 11pm.

Amplified live music in non-licensed venues will still require formal authorisation from the Licensing Authority, such as a Premises Licence or Temporary Event Notice.

Provision of facilities for making music and dancing

- 12.5 The Act removes the need to licence entertainment facilities such as dance floors, microphone stands and pianos etc. that are made available for use by the public.

Further changes

- 12.6 In 2012 the Government launched a consultation on the deregulation of most entertainment activities that require a licence under the 2003 Act, the response to this consultation was published in January 2013 along with proposals to further deregulate entertainment from licensing controls. The exact implementation date of these changes is not known at the time of writing, but is expected within 12 months.

- 12.7 In general terms, the new policy builds upon the partial deregulation brought in by the Live Music Act, extending the range of entertainment activities covered and, in some cases, the maximum audience size allowed. There are also certain exemptions in relation to community venues such as council run halls, schools, hospitals and nurseries.

Mediation

- 12.8 Where a responsible authority or another person (such as a member of the public, local resident or residents' association) has made a valid representation regarding an application or for a licence to be reviewed, the Licensing Authority will seek to encourage direct contact between the parties to try and achieve agreement. This process will not override the right of any responsible authority or other person to ask that the Licensing Sub-Committee consider a valid representation.

Licence Reviews

- 12.9 Any responsible authority or other party may make an application for review in respect of any granted licence where it becomes apparent that, because of some matter arising at the premises, one or more of the licensing objectives are not being promoted. Anyone seeking to apply for the review of a licence is advised to contact the Licensing Team for advice on the application process.
- 12.10 With the exception of applications for review from responsible authorities, the Council will not consider more than one application in any 12 month period for the review of a licence on the same or similar grounds, except in exceptional and compelling circumstances such as continued disorder clearly associated with the management of the premises. Similarly, more than one application for review on the same or similar grounds will be accepted in the event of expedited reviews or a review following a closure order.
- 12.11 The Council has delegated the function of determining whether requests for reviews should be rejected on the grounds that they are *frivolous*, *vexatious* or repetitive to designated officers, who will consult with the Chair or Vice Chair of the Licensing Committee.

Appeals

- 12.12 Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the 2003 Act.
- 12.13 The Licensing Sub-Committee will give clear and comprehensive reasons for any rejection of an application or grant of a licence or any other decisions. The reasons for any decision will be made in public at the hearing.
- 12.14 The Licensing Sub-Committee will provide full written details of the decision with its reasons to all parties within five (5) working days. From receipt of the written decision, the parties have 21 days to lodge an appeal at the magistrates' court.

Promotion of Equality

- 12.13 The Council recognises its obligation under our equality legislation covering race, disability, gender, age, sexual orientation and religion or beliefs. The functions under the Licensing Act 2003, and this policy are therefore operated accordingly.
- 12.15 The Authority considers that access to licensed premises and the full range of entertainment provided by a licence should not be denied to anyone who may be disabled. The Authority expects all proprietors of licensed premises to give due consideration to the needs and requirements of access to licensed premises by disabled or less mobile customers and to make adequate arrangements to ensure their operations are inclusive.
- 12.16 Consideration might also need to be given to conditions that ensure adequate arrangements exist to enable the safe evacuation of disabled customers in the event of an emergency.

13.0 Integrating Strategies

- 13.1 The Council will endeavour where possible to secure proper integration between its licensing policy and its strategies for crime and disorder, planning, culture, transport, tourism and economic development. Members of the Licensing Committee may, where appropriate, receive reports on these issues to facilitate decisions and any review of current policy.

Hertsmere Together, Local Strategic Partnership

- 13.2 The Licensing Authority recognises its responsibility to address issues relating to crime and disorder and is committed to working together with other partners to make the Borough of Hertsmere a safe and attractive area in which to live, work study and socialise under the umbrella of the Hertsmere Community Safety Partnership.
- 13.3 Many of the important issues facing Hertsmere, such as crime and disorder, are problems that cannot be tackled fully by one single organisation. The Community Strategy was developed as a framework to enable local organisations to work together to address these issues more effectively and efficiently.
- 13.4 The Community Strategy has been developed by 'Hertsmere Together, Local Strategic Partnership', in consultation with other relevant partners, and the wider general public. This, combined with statistical evidence, ensures that the strategy reflects local needs and aspirations.

Hertsmere Together's Vision is:

- To shape a better future for the communities of Hertsmere through partnership working;
- To create a healthier community for all;
- To create a safer community for all;
- To create a thriving community for all;

Its aim is to work together with communities to identify solutions and initiatives to address local issue.

Planning

- 13.5 The Licensing Authority will ensure that planning and licensing regimes are separated to avoid duplication and inefficiency. The licensing committee is not bound by decisions made by a planning committee, and vice versa. Applicants may however wish to seek advice regarding planning permission from the Planning Authority prior to submitting an application under the Act.
- 13.6 There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant should observe the earlier closing times. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

Building Control

- 13.7 The Building Regulation process is a separate system to the licencing regime but complementary in terms of some shared objectives.
- 13.8 Where a licence is applied for or exists and any building regulated work is carried out, either as a material alteration, change of use or new build to a licensed premises, the owner / Designated Premises Supervisor should ensure that before opening to the public, building regulation consent has been granted in full and that completion certificates have been issued.
- 13.9 Two separate and distinct certificates are issued on a commercial or work place premises. The first confirms compliance with Building Regulations in general and the second compliance in terms of fire precautions, including means of escape in case of fire. A copy of this second certificate is sent to the Fire Service, which triggers their responsibilities under the Regulatory Reform (Fire Safety) Order 2005 and enforcement of risk assessments.

Promotion of Cultural Activities

- 13.10 The Council is anxious to ensure that broad cultural activity and entertainment is not deterred by licensing requirements.
- 13.11 To promote greater cultural diversity in the performing arts, the Licensing Authority encourages applications for live music, dance, theatre, street theatre and musical bands etc, and in particular from ethnic and other minority groups.

14.0 Delegation of Functions

- 14.1 The 2003 Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees.

- 14.2 Many of the decisions and functions will be purely administrative in nature and so this Policy seeks to underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.
- 14.3 Where, under the terms of the 2003 Act, there are no representations on an application to the grant of a premises licence or club premises certificate these matters will be dealt with by officers in order to speed matters through the system. Although essentially a matter for Licensing Authorities to determine themselves, the Secretary of State recommends that delegation should be approached in accordance with the table in Appendix B, and so the Council adopted this as its 'Scheme of Delegation'.
- 14.4 The full Licensing Committee comprises of fifteen Elected Members, with hearings / reviews of licences taking place before Sub-Committees made up of three Members taken from the main Committee in accordance with the 'Scheme of Delegation'.
- 14.5 In such instances Members will be hand-selected in order that no Member will hear an application / appeal / review for a premises located either in their own ward or of a neighbouring ward wherever possible. This is to avoid any perception that any Member(s) sitting on a Sub-Committee may be biased towards or against the premises concerned. Furthermore, members of the Committee have received extensive training on their roles in the licensing / review process, the boundaries of their powers and this Statement of Licensing Policy, against which their decisions will be made and from which reasons for these decisions will be derived.

15.0 Further Information

- 15.1 The Licensing Authority can only offer advice on the process for and progress of applications and as to whether particular activities are required to be licensed. If an applicant requires detailed advice on the requirements of the legislation and information as to how it may affect their premises, they may wish to seek their own independent legal advice.
- 15.2 Applicants can obtain advice on the application process, fees and can access all applications from the Licensing Team at the Civic Offices, Elstree Way, Borehamwood, Herts., WD6 1WA, telephone: 020 8207 7435 or at www.hertsmere.gov.uk.
- 15.3 Online applications and payments are also available from the Council's website.
- 15.4 Comprehensive contact details for all Responsible Authorities are available at Appendix A.
- 15.5 Delegation of functions under the Licensing Act 2003 is available at Appendix B.
- 15.6 References to Guides and Best Practice are available at Appendix C.

APPENDIX A

RESPONSIBLE AUTHORITIES

Licensing Authority

Hertsmere Borough Council
Civic Offices
Elstree Way
Borehamwood
Hertfordshire
WD6 1WA

TELEPHONE 020 8207 2277
FAX 020 8207 7436
EMAIL licensing.services@hertsmere.gov.uk

Hertfordshire Constabulary

The Chief Officer of Police
Borehamwood Police Station,
Elstree Way
Borehamwood
Hertfordshire
WD6 1JP

TELEPHONE 01707 806625
EMAIL des.michael@herts.pnn.police.uk

Hertfordshire Fire and Rescue Service

Fire Protection Manager
Fire Protection
Mundells
MU 103
Welwyn Garden City
Hertfordshire
AL7 1FT

TELEPHONE 01707 292310
EMAIL administration.cfs@hertsc.gov.uk

Hertfordshire Safeguarding Children's Board

HSCB Business Manager
Room 127
County Hall
Pegs Lane
Hertford
SG13 8DF

TELEPHONE 01992 588757
FAX 01992 588201
EMAIL admin.lscb@hertsc.gov.uk

Principal Environmental Health Officer

(Health and Safety)

Hertsmere Borough Council

Civic Offices

Elstree Way

Borehamwood

Hertfordshire

WD6 1WA

TELEPHONE

020 8207 2277

FAX

020 8207 7436

EMAIL

environmental.health@hertsmere.gov.uk

(or, where the Enforcing Authority for Health & Safety at Work is the Health & Safety Executive)

Health & Safety Executive

Woodlands

Manton Lane

Manton Lane Industrial Estate

Bedford

FAX:

01234 220633

Principal Environmental Health Officer

(Environmental Protection)

Hertsmere Borough Council

Civic Offices

Elstree Way

Borehamwood

Hertfordshire

WD6 1WA

TELEPHONE

020 8207 2277

FAX

020 8207 7436

EMAIL

environmental.health@hertsmere.gov.uk

The Head of Planning

Hertsmere Borough Council

Civic Offices

Elstree Way

Borehamwood

Hertfordshire

WD6 1WA

TELEPHONE

020 8207 2277

FAX

020 8207 7444

EMAIL

planning@hertsmere.gov.uk

Trading Standards

Hertfordshire County Council
Mundells
Welwyn Garden City
Hertfordshire
AL7 1FT

TELEPHONE 01707 292429
EMAIL hcc.tradstad@hertscc.gov.uk

Public Health

(postal point SFAR232)
Farnham House
Six Hills Way
Stevenage SG1 2FQ

EMAIL licensing@hertfordshire.nhs.uk

Contact details for Licensing Authority

Environmental Health (Licensing)
Civic Offices
Elstree Way
Borehamwood
Herts
WD6 1WA

Telephone: 020 8207 7435
Fax: 020 8207 7436
Email: licensing.services@hertsmere.gov.uk
Internet: www.hertsmere.gov.uk

Please be advised that the above list may change during the life of this policy and it is advisable to confirm details through either our website or by contacting the licensing department.

APPENDIX B

DELEGATION OF FUNCTIONS

The Council will delegate its functions under the Licensing Act 2003 as follows:

Matter to be dealt with	Full Licensing Committee	Licensing Sub-Committee	Officers
Application for a Personal Licence		If a police objection	If no objection made
Application for a Personal Licence with unspent relevant convictions		If a police objection	If no objection made
Application for Premises Licence/Club Premises Licence		If a relevant representation made	If no relevant representation made
Application for a Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Licence		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for Transfer of Premises Licence		If a police objection	All other cases
Application for Interim Authorities		If a police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious		If referred by an Officer	All other cases (<i>in consultation with Committee Chair/Vice-Chair / their nominated representative</i>)
Determination of a police objection to a Temporary Event Notice		All Cases	
Decision as to whether or not a club is established in good faith			All cases

Matter to be dealt with	Full Licensing Committee	Licensing Sub-Committee	Officers
Decision as to whether a club no longer satisfies the conditions to be a qualifying club			All cases
Acknowledgement of receipt of Temporary Event Notices			All cases
Service of Counter Notice			All cases
Rejection of Personal Licence application – person under 18 years of age			All cases
Referral of Personal Licence application to police – convictions of relevant offences			All cases
Referral of Personal Licence Holder to police – convictions during duration of licence			All cases
Notice requiring Personal Licence Holder to produce licence for updating			All cases
Institution of proceedings			Chief Environmental Health Officer
Determination of Minor Variations			Senior Licensing Officer
Making a representation on behalf of the Licensing Authority			Chief Environmental Health Officer
Initiating a Review on behalf of the Licensing Authority			Chief Environmental Health Officer

APPENDIX C
REFERENCES TO GUIDES AND BEST PRACTICE

The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6 <i>A draft copy of the new ‘Purple Guide’ which will be completed by the end of 2013, is available on-line.</i>	www.hse.gov.uk www.thepurpleguide.co.uk
Guide to Fire Precautions in existing places of entertainment and like premises (The Stationery Office) (“The Primrose Guide”) ISBN 0 1 340907 9	www.tsoshop.co.uk
Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X	www.hse.gov.uk
The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2	www.safetyatsportsfounds.org.uk
Good Practice Guide on the Control of Noise from Pubs and Clubs – The Institute of Acoustics	www.ioa.org.uk
Licensed Property: Noise Control- British Beer and Pub Association	www.beerandpub.com
The Portman Group Code of Practice on the naming, packaging and promotion of Alcoholic Drinks	www.portmangroup.org.uk
British Board of Film Classification – Classification Guidelines	www.bbfc.co.uk
HSE Guide – The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825 of Laser products	www.hse.gov.uk
The Governments Alcohol Strategy	www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-strategy
Home Office - Supporting Guidance Pool of Conditions	www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/pools-conditions
Guidance issued under Section 182 of the Licensing Act 2003	www.homeoffice.gov.uk
Hertsmere Together Community Strategy 2013 – 2016	www.hertsmere.gov.uk/hertsmeretogether
Information Commissioner (ICO)	www.informationcommissioner.gov.uk

This is not intended to be an exhaustive list of reference guides but is offered for guidance and may be revised. Where an application proposes any activity not covered by the above, every effort should be made to research current best practice guidance.

APPENDIX D

LIST OF CONSULTEES

In addition to the persons listed in section 5(3) of the 2003 Act, consultation has taken place with a variety of other bodies/ groups / their representatives, as outlined below:

- Representatives of the Local Strategic Partnership (LSP), known as 'Hertsmere Together'
- Local town / parish councils;
- Herts Valleys Clinical Community Group;
- Hertsmere Community Safety Partnership's (CSP);
- Hertsmere Borough Council (HBC) and Hertfordshire County Council (HCC) Councillors;
- Hertfordshire Chamber of Commerce and Industry;
- ALMR (Association of Licensed Multiple Retailers);
- British Institute of Innkeepers;
- Citizens Advice Bureau;
- Pub Watch;
- Health and Safety Executive;
- Musicians' Union and Equity;
- Disability Rights UK;
- British Transport Police;
- Neighbouring local authorities (London Boroughs of Barnet, Enfield and Harrow, St. Albans City & District Council, Three Rivers District Council, Watford Borough Council and Welwyn & Hatfield Borough Council);
- Notice in 'Hertsmere News'.