



MID SUSSEX DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY

LICENSING ACT 2003

COMMENCES 5<sup>th</sup> JANUARY 2025

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## **Section 1 Introduction**

1.1 This document is the policy for the Licensing Act 2003 for Mid Sussex District Council. The policy will take effect on 5th January 2025 and will remain in force for a period of 5 years or until it is subject to review by the council whichever is sooner.

1.2 Applicants are expected to be familiar with the contents of this Statement of Licensing Policy and it is recommended, in accordance with government guidance that applicants should also seek the views of the key responsible authorities about the steps necessary for the promotion of the licensing objectives before formally submitting applications and have taken these views into account where appropriate, when formulating their Operating Schedule.

## **Section 2 Purpose and Scope of the Policy**

2.1 Mid Sussex District Council is the licensing authority for the purposes of the Licensing Act 2003 ('the Act') (as amended by the Violent Crime Reduction Act 2006, the Policing and Crime Act 2009, the Police Reform and Social Responsibility Act 2011, the Live Music Act 2012, the Deregulation Act 2015, the Immigration Act 2016 and the Licensing Act 2003 (Miscellaneous Amendments) Regulations 2017) and is responsible for the administration and enforcement of the Act within the Mid Sussex District. This includes, among other duties, the granting of Premises Licences, Club Premises Certificates, Temporary Events Notices and Personal Licences in the district in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late-night refreshment.

2.2 This policy is published in accordance with the provisions of Section 5 of the Licensing Act 2003 and the Guidance issued under Section 182 of the Act and will be reviewed and republished, following consultation, at least every five years. It was last updated in January 2020. This policy sets out the guidelines the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications under the Act.

2.3 The 2003 Act requires that the Licensing Authority carries out its various licensing functions so as to promote the following four Licensing Objectives:

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

2.4 The Licensing Authority 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.

2.5 For the purposes of the Act, licensable activities are:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club
- The provision of regulated entertainment to the public and
- The provision of Late-Night refreshment – the supply of hot food and/or hot drink from premises between 11pm and 5am.

2.6 The provision of 'regulated entertainment' means that entertainment is provided to any extent for members of the public or a section of the public, exclusively for members of a club and their guests, or for consideration and with a view to a profit.

It includes the following activities:

- The performance of a play.
- Exhibition of a film.
- All indoor sporting events.
- Boxing and wrestling.
- A performance of live music.
- Any playing of recorded music.
- A performance of dance.
- Entertainment similar to the performance of live music, recorded music or dance.
- Providing facilities for making music and dancing or entertainment of a similar description

2.7 As a result of deregulatory changes that have amended the Licensing Act 2003, no licence is required for some entertainment activities.

2.8 Details can be found in the Home Office document; Revised Guidance issued under Section 182 Licensing Act 2003. This can be found on the Home Office web site at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003> .

2.9 The aim of the policy is to promote the licensing objectives set out in the Act whilst securing the safety and amenity of residential communities and facilitating a sustainable entertainment and cultural industry. The overriding philosophy of the licensing regime is that there is a presumption that a licence will be granted unless there are compelling reasons to refuse the licence. This policy will then form the basis on which the licensing decisions are taken by the authority.

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

**'Working together for a Better Mid Sussex'.**

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

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

2.13 The district has a population of approximately 152,600. Sixty percent of the population live in the three main towns with the remaining 40% living in the smaller villages and rural areas.

2.14 The aim of the Policy is to strike a balance between securing the safety, amenity and cleanliness of the residential and business community and encouraging a sustainable entertainment and cultural industry. The policy has been produced having due regard to the guidance on the Act issued by the Home Office. Whilst the

Council will have full regard for both the Guidance and its own Statement of Licensing Policy, in determining individual licensing applications, it may depart from either if reason exists for doing so. Written statements of Licensing Panel decisions will be supplied to all parties to hearings.

2.15 Licensing decisions taken by the Council (The Licensing Authority) will be focused on matters within the control or influence of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Therefore, we will focus on the impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

2.16 In making its decisions we will take into account the fact that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the control or influence of the individual club or business holding the licence, certificate or permission concerned. Each licence application will be considered on its merits in the context of the four Licensing Objectives

2.17 During each five-year period the Policy will be kept under review and such revisions will be made as considered appropriate to ensure the statutory objectives of the Act are being met against any changes to the licensing legislation or amendments to the Section 182 statutory guidance.

2.18 Attached to the policy, but not forming part of it, are 'Supplementary Guidance Documents'. These documents are provided to assist licence applicants and may be amended at any time without revision of the Licensing Policy.

### **3. Right to Work**

3.1 The Immigration Act 2016 places a duty upon licensing authorities to ensure all applicants for premises and personal licences have the right to work in the United Kingdom and that licences and authorisations are not issued to persons who are unable to provide evidence of such.

3.2 If an applicant has restrictions on the length of time they may work in the UK, a premises licence or personal licence may still be issued. However, the licence will cease to have effect when the right to work lapses.

3.3 The Licensing Authorities will not discriminate against anyone. All applicants will be treated in the same way during the licence application process. Assumptions will not be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic origin, accent, the colour of their skin, or the length of time they have been resident in the UK.

### **4. Consultation**

4.1 Before publishing this Policy, the Licensing Authority consulted by publishing a draft policy online available for all persons to view.

4.2 In accordance with S5(3) of the Act, the following parties have been consulted during development of this policy:

- The Chief Constable, Sussex Police.
- The West Sussex Fire and Rescue Service.

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

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

## **5. General Principles**

5.1 Whilst the Guidance issued under S182 of the Act makes it clear that the promotion of the licensing objectives is of paramount importance, the Licensing Authority identifies other key aims and principles which should be achieved. The main principles of the Policy are:

- To give licensing authorities and police powers they need to effectively manage the night-time economy and act against those premises causing problems;
- To recognise 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 operators of premises;
- To provide a regulatory framework for alcohol and entertainments and late-night refreshment which reflects the needs of local communities and empowers the Authority to make and enforce decisions about the most appropriate licensing strategies for their local area;
- To encourage greater community involvement in licensing decisions and ensuring local residents are given a proper opportunity to have their say regarding licensing decisions that may affect them;
- To promote public health;
- To protect the public including local residents from crime, antisocial behaviour and noise nuisance associated with licensed premises;

5.2 The Policy is also intended to ensure that the provision of additional opportunities for licensable activities are matched by appropriate and proportional measures enabling the police and licensing authority to act promptly to maintain public order and safety.

5.3 Mid Sussex District Council represents the general interests of communities, and the views of minorities will be considered. When acting in its capacity as the Licensing Authority, only those views in respect of the licensing objectives will be considered.

5.4 The Policy sets out a general approach to making licensing decisions that underpins the provisions of the Act and associated guidance. It does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions (or reviews) or the right to have any such application considered on its individual merits.

5.5 Similarly, the Policy does not override the right of any person to make representations on an application or request a review of a licence or certificate. Any person has the same rights to make representations concerning applications for premises licences and hours of trading and to have those representations considered by the same standards regardless of the area of the district in which they live or conduct their business.

5.6 When Mid Sussex District Council seeks a premises licence from itself (as the Licensing Authority), the Licensing Committee, Sub-committee and its officers will consider the matter from an entirely neutral standpoint.

5.7 Larger or high-risk outdoor events or events which are deemed unusual in nature will be expected to have met with, and sought the advice of, the multi-agency Safety Advisory Group (SAG) so that the safety and control of the event can be planned several months in advance. The Licensing Authority will assist with advice and guidance.

5.8 The Licensing Authority acknowledge that licensing law is not a mechanism for the general control of anti-social behaviour by people once they are beyond the direct control of the individual, club or business holding a licence, certificate or relevant permission. However, the Licensing Authority believes a level of responsibility for customer or member behaviour clearly exists beyond the site boundary. The Licensing Authority will seek compelling evidence linking incidents that occur away from particular premises when making decisions concerning licences, certificates or notices. The control of anti-social behaviour away from licensed premises, qualifying clubs and temporary events is primarily a matter for the Police but the individual, club or business holding a licence, certificate or relevant permission will be expected to work in co-operation with the Police to ensure that, wherever possible, anti-social behaviour away from premises and events is minimised.

5.9 In the review and delivery of its Policy the Licensing Authority aims to work closely with responsible authorities, other statutory agencies, all tiers of local government, community, special interest and trade groups. The aim is to achieve a fair and balanced licensing regime through consultation and partnership working wherever possible.

## **6. Equality**

6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way, which is incompatible with a right under the European Convention on Human Rights, except in certain circumstances. In carrying out its licensing functions the Licensing Authority will have particular regard to:

- Article 6 - that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established in accordance with the law.
- Article 8 - that everyone has the right to respect for his home and private and family life.

- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of his or her possessions (including for example the possession of a licence)
- Article 14 - the prohibition of discrimination. The rights and freedoms within the Convention shall be secured without discrimination on any ground.

6.2 However, it is important to understand that many of the rights and freedoms are subject to limitations, enabling a balance to be struck between the rights of an individual and the wider interests of a democratic society. Thus, a person's individual convention rights may be lawfully interfered with but only if there is a law which permits it. The interference must also be no more than is necessary and proportionate to the aims.

6.3 This Policy recognises that The Equalities Act 2010 places a legal obligation on this Authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and to advance equality of opportunity; and foster good relations between people with different protected characteristics. All complaints relating to issues of equality in licensed premises or against licence holders will be investigated and action will be taken where deemed appropriate.

6.4 The Licensing Authority recognises that the district as a whole and especially the town centres are seeing an increase in diversity of population. Applications for licences for business which caters to a more diverse audience would be encouraged as long as they seek to promote the licensing objectives. Those especially looking to host a different offering where alcohol is not a licensable activity and to offer activities which offer alternative entertainment in the local area would be welcomed as a measure to assist make the town centres a destination for all to enjoy, especially in the evenings.

6.5 The Equality Act 2010 also imposes a duty on any person providing a service to the public, including operators of licensed premises, to make reasonable adjustments to enable disabled people to access the service, where a disabled person would be at a substantial disadvantage compared to a non-disabled person.

6.6 The Licensing Authority encourages applicants and existing operators to be proactive in meeting their legal responsibilities and plan for these.

## **7. Data and Privacy**

7.1 In exercising its functions under the Act, the Licensing Authority will conform to the protocols established with the Information Commissioner's Office (ICO) to ensure efficient and effective exchange of information. The existing protocols established in connection with the Licensing Act 2003 are utilised for information exchange with other regulatory bodies. All information exchanged is in accordance with the requirements of the General Data Protection Regulations 2018 (GDPR) and the Freedom of Information Act.

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

7.3 In exceptional circumstances, persons making representations may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.



7.4 Where the Council considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, we may consider alternative approaches.

7.5 Our policy with regards to disclosure of details will depend on the merits of each individual case. The Council will decide whether to withhold some or all of the person's personal details from the applicant, possibly giving only minimal details (such as street name or general location within a street). However, withholding such details will only be considered where the circumstances justify such action and those making representations should be aware their details will ordinarily form part of a report and will be published before any hearing.

## **8. Licensing Objectives**

8.1 The four licensing objectives are:

- The prevention of Crime and Disorder
- The prevention of a Public Nuisance
- The promotion of Public Safety
- The Protection of Children from Harm

8.2 In respect of each of the four licensing objectives, applicants for new, and changes to existing licences will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their application, Operating Schedule and other supporting documentation, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences or be at times other than normally operated.

8.3 Details added to the Operating Schedule of an application will be translated into clear and enforceable conditions which will be added to the Premises Licence or Club Premises Certificate. Conditions should be focused on matters which are in the control of licence holders and others with relevant authorisations (such as the DPS) i.e. the premises and its vicinity.

8.4 Applicants are expected to research the local area and consider any local issues when preparing an Operating Schedule as part of an application. The Operating Schedule should detail measures that will prevent an adverse impact on the licensing objectives, this should include conditions designed to mitigate the likelihood of the premises contributing to issues in the local area.

8.5 Drink spiking is when someone puts drugs or alcohol into a person's drink without their consent. It can include putting alcohol into a non-alcoholic drink, adding extra alcohol to an alcoholic drink or slipping prescription or illegal drugs into an alcoholic or non-alcoholic drink. It can be difficult to tell whether a drink has been spiked, as substances used for spiking usually have no taste, odour or colour. Needle spiking is when someone injects a victim with a substance using a hypodermic needle (or other form of administration such as a combi-pen).

8.6 Reports of spiking in the UK have increased every year since 2016 but is still believed to be an underreported crime. Spiking is an awful crime that can affect victims' physical and mental health, their emotional wellbeing, and can have lasting

repercussions on their lives. Licence holders, the DPS and members of staff will be expected to report incidents and suspicions of drink spiking, sexual harassment, sexual violence and grooming to the responsible authorities in order that the police, licensing authority and the other responsible authorities can take action, identify any trends and work with premises to make improvements.

8.7 The Licensing Authority expects the operators of all premises to have regard to the need to provide appropriate safeguarding for vulnerable people (both children and adults) and consider including conditions which assist in keeping vulnerable people safe. This may include:

- Dispersal policies including provisions for the safe dispersal of the vulnerable; and/or
- Policies concerning the safe and responsible ejection or refusal of entry of vulnerable or potentially vulnerable people
- Procedures for reporting concerns regarding vulnerable persons

8.8 Although each licence or certificate application must be considered on its individual merits, the Licensing Authority in adopting its Policy is making it clear that wide ranging considerations including the fitness of the applicant, the management and the suitability of premises will all be taken into account when making licensing decisions. This will not however override obligations set out in the Act.

## **9. Applications**

9.1 The Licensing Authority 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 is available on the council website together with all relevant application forms and guidance.

9.2 The Licensing Authority recognises the cultural, social and business advantage that premises and events requiring a licence under the Act can provide and the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants develop their Operating Schedule. The Licensing Authority will offer as much advice and guidance to applicants as resources permit. The Licensing Authority will encourage applicants and those who may make representations to work together in order to resolve areas of concern about an application. However, once an application has been lodged, there are statutory timescales imposed upon the application and determination processes which may then restrict the opportunity for discussion and liaison.

9.3 A Premises Licence or Club Premises Certificate is required where regulated activities are regularly going to take place. Application for a Premises Licence or Club Premises Certificate must be made in the prescribed manner and include a plan of the premises and the relevant fee.

9.4 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.

9.5 After submission of an application, it is normal practice for the authority to reword conditions to make them clear and enforceable. The intention of the condition will remain the same.

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

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

9.8 Application forms and advice are available from the Council's Licensing Unit website or by contacting the licensing team.

### **Variations**

9.9 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 an application for a new Premises 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 the licence 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 on 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 Full Variation.

9.10 Minor Variations that will not impact adversely on the Licensing Objectives, such as minor structural alterations, are subject to a simplified 'Minor Variations' process. Under this process, the applicant is not required to advertise the Variation in a newspaper or copy it to the Responsible Authorities. However, they must display a notice on the premises in accordance with regulation for a period of ten working days. On receipt of such an application the Licensing Authority must consider whether the variation could impact adversely on the Licensing Objectives and can consult any of the Responsible Authorities it deems necessary. The Police will be consulted on all applications for minor variations. Decisions on Minor Variations are delegated to licensing officers at this authority as recommended by the Government.

### **Advertising Applications**

9.11 Applicants must comply with the Licensing Act 2003's regulations when advertising their applications for a Premises Licence, Club Premises Certificate or Variation by displaying a blue notice for 28 days on the exterior of the premises in clear view of the passing public and placing an advertisement in a local newspaper.

9.12 Applications must be placed in the newspaper relevant to the area in which the premises is situated. In cases of doubt, advice must be sought from the Licensing Team.

9.13 The Mid Sussex District Council area has full newspaper coverage by two weekly publications namely;

- The Mid Sussex Times (covers south of the District including Haywards Heath and Burgess Hill).
- Kent and Sussex Courier (covers north of the District including East Grinstead).

9.14 The Licensing Authority considers that as newspapers cover the entirety of the district, such adverts will be placed with either of the above publications.

9.15 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.

### **Application Process**

9.16 New applications, Variation applications and applications to Review Premises Licences or Club Premises Certificates must be made to the Licensing Authority with copies served on each of the responsible authorities on the same day. If application is made on-line through the Councils' website, the Licensing Authority will provide the Responsible Authorities with copies of the application electronically.

9.17 Responsible Authorities may make representations on applications for Premises Licences or Club Premises Certificates, or their Variation. Only the Police and Public Health & Regulation Environmental Team may object to a Temporary Event Notice (TEN) and only the Police to Premises Licence Transfers, Variations of Designated Premises Supervisors and Personal Licence applications.

9.18 In addition to the Responsible Authorities 'any person' can make a relevant representation to the Licensing Authority on applications for the grant, Variation or Review of a Premises Licence or Club Premises Certificates. In addition, any person may seek a Review of a Premises Licence or Club Premises Certificates.

9.19 Representations must be made in writing and must be received by the Licensing Unit within the relevant statutory consultation period. Representations received after the close of consultation cannot be considered, save in exceptional circumstances.

9.20 Representations to an application may be positive or negative, although only negative representations would result in a Licensing Sub-Committee hearing and determination of an application.

9.21 Where relevant representation regarding an application has been received and a "Notice of Hearing" is served on an applicant, the Licensing Authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations in full. Only in exceptional circumstances where there are genuine fears of intimidation or violence if the representor's personal details were divulged to the applicant can the Licensing Authority consider taking alternative approaches.

9.22 The Licensing Authority will carefully consider the weight it attaches to each relevant representation based on the:

- content of the representation and its relevance to the licensing objectives
- size and nature of the premises
- distance of the premises from the person making the representation

- potential impact of the premises on the person making representation (nature of application, number of customers, routes likely to be taken by customers)

9.23 Any person may make a representation regarding a Premises Licence or Club Premises Certificate application and their representation should not be excluded based on the distance they live or work from a premise but on the representation's relevance to the Licensing Objectives. However, the vast majority of individuals making representations are persons residing or persons involved in a business in 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. Each representation will be judged on its own merit.

9.24 A representation is relevant when it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. In deciding 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. Therefore, it is the impact of issues relating to the four licensing objectives that is the key consideration. Each representation will be judged on its own merit.

9.25 Upon receiving a representation, officers of the Licensing Authority may assess whether the representation is considered to be relevant. Only representations that detail likely impact on one or more of the licensing objectives will be considered relevant. Representations that are not deemed relevant by officers may not be placed before the sub-committee for consideration.

9.26 In borderline cases the benefit of doubt will be given to the person making representations and the representation will be included in the agenda for the Sub-committee to determine what weight, if any, should be given to it.

### **Determinations**

9.27 Where no relevant representations are received, the Licensing Authority will have no discretion and must grant applications. Where relevant representations are made the Licensing Authority will take into account the following matters (this list is not exhaustive):

- Matters that with within the control of the applicant or holder of authorisation concerned;
- The nature of the premises concerned;
- The impact – actual or potential – of proposed activities on people living or working nearby;
- The extent to which an application has considered and addressed the above impacts prior to making the application;
- Its duties arising under other legislation (e.g. Human Rights Act and the Equalities Act 2010); and
- Any relevant principles arising from case law.

9.28 Where relevant representations are made and remain unresolved, a hearing will be convened before the Licensing Sub-committee. The application will be determined after all representations and evidence has been considered.

9.29 If a relevant representation has been received regarding an application then a hearing must be held unless all parties agree it is unnecessary, except for a Review application, where a hearing must always be held, even if mediation has been successful.

9.30 The determination will be issued with reasons for the decisions and will be issued to the applicant and any parties to the hearing in writing as soon as reasonably practicable, in accordance with hearings regulations.

9.31 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 Act itself.

9.32 Where a responsible authority or another person (such as a member of the public, a local resident or residents' association) has made a valid representation about 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 Committee consider a valid representation.

## **Section 10 Licensing Conditions**

10.1 When attaching conditions to licences and certificates issued under the Act, the Council will have due regard to the fact that conditions are tailored to the individual style and characteristics of the venue and event for which a licence is sought.

10.2 The Authority cannot impose blanket standard conditions.

10.3 When attaching conditions, the Licensing Authority will also be aware of the need to avoid measures which might unreasonably impose indirect costs of a substantial nature.

10.4 To assist licensees, we have published guidance as to how noise may be controlled in places of public entertainment and other venues. The guidance is available from the Council's Licensing Team on request and on the Council's website. It is also attached as Supplementary Guidance Document 7 to this Policy. Applicants are expected to address this guidance in their Operating Schedule when applying for Regulated entertainment.

10.5 The Authority will follow The Home Office Licensing Act Guidance, Chapter 10 to select appropriate conditions to suit each operation.

### **Mandatory Conditions**

10.6 There are a number of mandatory conditions that apply to all premises licences and club premises certificates. Full details can be found using the link at Document 4 in the Supplementary Guidance at the end of this Policy.

## **Community Premises**

10.7 Section 19 Licensing Act 2003 requires all premises licensed for the sale of alcohol to have a Designated Premises Supervisor (DPS) nominated and named on the licence. All sales of alcohol must be authorised by a personal licence holder.

10.8 Section 41D Licensing Act 2003 allows Community Premises to apply to have this standard mandatory condition removed from their premises licence. This will allow Community premises to operate without a DPS and for sales of alcohol to be made or authorised by the management committee.

10.9 Further information about the definition of Community Premises can be found in the Statutory Guidance to the Act at Section 4.85 et seq.

10.10 The Authority cannot impose blanket conditions upon Community Premises that apply to dis apply the Mandatory Condition. All applications to this Licensing Authority to disapply the mandatory condition must address the following matters;

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

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

## **Section 11                      Licensing Hours**

11.1 All applications will be considered on their individual merits. It is recognised that flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. The Authority needs to create a balance between the aspirations of the businesses and the concerns of the local community.

11.2 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises throughout the period they are open for general trading, unless there are good reasons, based on the licensing objectives, for restricting those hours. We do not anticipate granting permission to sell alcohol to such establishments outside the hours of 0600hrs to 2300hrs save in exceptional circumstances. We do not consider a record of good management or financial considerations to constitute exceptional circumstances.

11.3 We recognise that businesses may wish to open later and diversify the range of entertainment they offer. The Authority and other Responsible bodies will consider applications for late night regulated entertainment on their merits but will seek safeguards through licence conditions to ensure the licensing objectives are upheld.

11.4 The town centre areas in Haywards Heath, East Grinstead and Burgess Hill have thriving nighttime economies. Problems in the town centres consist of noise breakout (music) from bars, particularly when patrons are entering and exiting, and noise disturbance generally from patrons on garden and outside patio areas. This is particularly so when the background ambient noise levels have dropped during the late evening.

11.5 Future applicants for licensable activities beyond 23:00 hours will be expected to specifically demonstrate how they intend to address the licensing objectives of Crime and Disorder and Public Nuisance.

11.6 The Licensing Authority is not prepared to grant permission for outside patio/garden areas to be used by the public beyond 2300 hours throughout the district other than in exceptional circumstances. We do not consider a record of good management or financial considerations to constitute exceptional circumstances.

11.7 The Licensing Authority believes that this measure is necessary to address the licensing objective of Public Nuisance.

## **Section 12 Children and Young persons**

12.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools.

12.2 To prevent illegal purchases of alcohol by underage persons, there is a Mandatory Condition requiring a 'proof of age' scheme for their premises.

12.3 This condition requires appropriate identification to be produced before a sale of alcohol can take place. 'Appropriate identification' is identification bearing a photograph of the holder, date of birth and a holographic mark. The most common forms fulfilling these criteria are a passport, photo card driving licence or PASS card.

12.4 The Proof of Age Standards Scheme (PASS) is the UK's national proof of age accreditation scheme, endorsed by the Home Office, the Association of Chief Police Officers (ACPO), the Security Industry Authority (SIA) and the Trading Standards Institute (TSI).

12.5 PASS sets and maintains minimum criteria for proof of age card issuers to meet. All cards schemes are required to submit to periodic audits carried out by an independent audit team appointed by the Trading Standards Institute (TSI) to ensure that they meet and keep the standards required for PASS accreditation.

### **The aim of PASS is to provide:**

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



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

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

### **Section 13. Adult entertainment**

#### **Sex Entertainment Venues.**

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

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

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

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

### **Section 14. Live Music, Dancing and Theatre**

14.1 The Authority recognises, in line with our Leisure and Cultural Strategy, the need to encourage and promote live music, dancing and theatre for the wider cultural benefit.

14.2 Only conditions that are necessary for the promotion of the Licensing Objectives will be attached to licences for activities of this nature. The Authority is aware of the need to avoid unnecessary or disproportionate measures that could deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

14.3 There is a need to balance the support for live music and entertainment in licensed premises with the real concerns of local residents who may be affected by noise breakout from premises and subsequent increase in footfall to the venue.

14.4 The Live Music Bill 2012 deregulated the playing of amplified live music in alcohol licensed premises and workplaces between 0800-2300 hours before an audience of less than 500 people. For premises not licensed for alcohol, the deregulation extends only to unamplified music during the same times.

14.5 Notwithstanding the deregulation, licensed premises that become the subject of review proceedings as a result of live music complaints can have conditions imposed upon them as if they were so licensed.

14.6 We strongly advise organisers of this type of entertainment to contact the Environmental Protection and Licensing Teams to discuss options and methods for mitigating noise disturbance.

14.7 The Council holds a number of Premises Licences for parks and open spaces. The Licensing Authority will continue to give advice about future events and the licensing of other publicly owned open spaces.

## **Section 15. Cumulative Impact and Special Policies**

15.1 Where the Licensing Authority considers that an area has become saturated with a certain type of licensed premises it may adopt a “Cumulative Impact Policy” for a particular area and thus refuse new licences in that area. However, all new licence applications will be considered on their individual merit and additional licences may be approved if it is considered that such an application is unlikely to add significantly to such saturation.

15.2 In determining whether to adopt a ‘Cumulative Impact Policy’ for an area the Licensing Authority will undertake to: -

- Identify concern about crime and disorder or public nuisance (within an area).
- Consider whether there is good evidence that crime and disorder are happening and are caused by the customers of licensed premises or that the risk of cumulative impact is imminent.
- Identify the boundaries of the area where problems are occurring.
- Consult those specified in Section 5(3) of the Licensing Act 2003 and subject of the outcome of such consultation – Include and publish details of the Cumulative Impact Policy within the Licensing Policy Statement.

15.3 There are currently no Cumulative Impact Areas within the Mid Sussex District Council area.

## **The Late-Night Levy and Early Morning Restriction Orders**

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

## **Section 16. Personal Licences**

16.1 Applicants for the grant of a personal licence will be required to provide a certificate as proof that they have obtained a relevant required qualification. Applicants are also required to provide a criminal records check.

16.2 Where a relevant unspent conviction is disclosed and the Police object to the application on the grounds of the crime prevention objective the matter will be referred to the licensing sub-committee. The committee shall normally refuse such an application unless there are exceptional and compelling grounds to justify the granting of the licence. Relevant convictions are listed under schedule four of the Act as amended by the Police Reform and Social Responsibility Act 2011.

16.3 Personal Licence holders have a legal obligation to notify the Licensing Authority as soon as reasonably practicable of any change of name or address or conviction for a relevant or foreign offence as defined in the Licensing Act 2003.

16.4 Where a Personal Licence holder is convicted by a court for a Relevant Offence, the court is under a duty to notify the Licensing Authority of the conviction and of any decision to order that the Personal Licence is suspended or declared forfeit.

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

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

### **Designated Premises Supervisor**

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

16.8 We do expect the DPS to have an active interest in the premises and to be involved in its day-to-day business. We do not regard this to be fulfilled by remote supervision. Indeed, we see no merit in attempting to supervise any licensed premises from afar. We encourage businesses to place responsibility as a DPS in staff who manage the business on site daily. He or she will have experience of engaging with customers and staff members on a regular basis. This will enable them to properly supervise the business and therefore be in a position to take appropriate action to promote the licensing objectives.

16.9 The DPS is encouraged, when authorising members of staff to sell alcohol, to keep a record of the authorisation. It is recommended that any authorisation should state who has been authorised and for what period. It is also considered to be good practice for the DPS and personal licence holders to train staff as to their responsibilities in relation to the service of alcohol, and keep a record of the training, even if not required as a term of the Premises Licence.

### **Section 17. Temporary Event Notices**

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

17.2 There are two ways of notifying the Licensing Authority.

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

17.3 There are two types of TENs, late and standard. It is recommended that a minimum of 28 days' notice is given of an intended event (by serving a standard notice). A copy of the notification must be submitted to the licensing authority, environmental health and the police simultaneously. The Act requires a minimum of ten clear working days for the submission of a standard notice. The day of service and the day of the event do not count in these calculations.

17.4 Late TENs. If it has become too late to submit a standard TEN, late TENs can be given no less than five clear working days ahead of the event and no more than nine clear working days and must also be submitted to environmental health and the

police. Late TENs are very restricted in number, and if an objection is received from the police or environmental health the permission will be withdrawn with no right of appeal and the event will not be permitted to go ahead. The Licensing Authority therefore recommend event organisers submit standard TENs in time.

17.5 If a TEN that has been given less than five clear working days ahead of the event it will be returned unauthorised. The law does not make provision for the Licensing Authority to use discretion in respect of notices that are out of time.

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

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

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

17.9 Standard Notice TENs notifications where there is a Premises Licence in existence may, at the request of Police or Environmental Protection Team, have relevant conditions from their Premises Licence attached to the TENs.

## **Section 18. Licence Reviews**

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

18.2 The Licensing Authority, as a Responsible Authority can initiate their own reviews of Premises Licences and Club Premises Certificates. It does not, however, expect to call for a review on behalf of other Responsible Authorities, all of whom have sufficient legislative power to ask for a review of a licence in their own right. It expects them to engage with premises that are viewed as problematic and to seek a review in their own right. It does not regard the review process as a first resort to solve a problem. It does expect some intervention and discussion by an enforcement agency in an effort to resolve and prevent problems escalating. It is accepted that the circumstances leading to some reviews may make this course of action impracticable.

18.3 The Licensing Authorities role in review proceedings will be to administer the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.

18.4 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right.

18.5 In the event of the Licensing Authority considering asking for a review, the final decision whether to proceed will be made by a manager at the level of at least Assistant Director.

18.6 At review proceedings the Licensing Authority has the following powers:

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

## **Section 19. Enforcement**

19.1 Where necessary, enforcement action will be taken in accordance with the principles of the Environmental Health Enforcement Policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

19.2 To promote the statutory licensing objectives the Licensing Authority will share information with other enforcement agencies such as Police, Fire, Trading Standards, Customs and Excise and The Health and Safety Executive. Information will also be shared with internal departments within the Council, such as Environmental Health and Planning.

19.3 Inspection of Licensed Premises will be undertaken at the discretion of the Licensing Authority in a targeted and risk-assessed basis, or as necessary e.g. following a complaint.

### Suspension of Premises Licence and Club Premises Certificates

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

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

19.6 Under the current framework, a premises licence will lapse on the death, incapacity or insolvency of a premises licence holder. The premises licence will now also lapse if the licence holder ceases to be entitled to work in the United Kingdom.

## **Section 20 Administration, Exercise and Delegations of Functions**

20.1 If an application is not accompanied by the specified accompanying documents and fees, it will be the Council's policy to return it to the applicant as an incomplete application. Such applications will not be considered until all necessary support documentation is received. Fees received in respect of unsuccessful applications or in respect of applications withdrawn by the applicant will not generally be refunded.

20.2 When determining applications the Licensing Authority will have regard to any guidance issued by the Home Office, legislation, case law and this Policy.

20.3 The powers of the Council under the Act may be carried out by its Licensing Committee, a Sub-Committee, or by one or more properly authorised Officers acting in accordance with the Council's Constitution and Scheme of Delegation. A decision properly made by an Officer, in accordance with the Council's scheme of delegation, is a decision made by the Council.

20.4 The Council will ensure that Members and Officers having responsibility under the Licensing Act 2003 will receive appropriate training to administer and enforce the Act.

20.5 All Licensing records are computerised. The Council's website carries clear information about how to apply for Licences or Certificates under the Act.

20.6 In addition to this Policy Statement, the staff of the Environmental Health Section and in particular those of the Licensing Team, will provide clear information and guidance on all licensing matters, on request, to members of the public, applicants for licences, councillors and other interested parties.

20.7 It is considered that many licensing applications will not be contentious and in the interests of efficiency and effectiveness, will be determined under delegated authority by properly authorised Officers. Applications where there are relevant representations which cannot be mediated will be determined by the Licensing Committee or a sub-Committee, as will any applications for the review of a licence (as outlined previously).

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

#### **Table of Delegation of Licensing Functions**

<b>Matters to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object			All cases

when local authority is a consultee and not the relevant authority considering the application			
Determination of a police or Environmental Health objection to a temporary event notice		All cases	
Application made under Minor Variation Order			All cases
Decision to suspend or revoke a personal licence		All cases	
Request for classification of films where none has been awarded by the BBFC		All cases	

## Section 21 Contact Details / Advice and Guidance

21.1 All application forms, including guidance for advertising for the Licensing Act 2003 are available to download from the Mid Sussex DC Web site:  
[www.midsussex.gov.uk](http://www.midsussex.gov.uk)

### Applications

21.2 Applications can be made in two ways:

- Electronically via the Mid Sussex District Council Web site.

Note: Applications Submitted electronically should be submitted only to the Licensing Authority.

- Submitting a paper copy to the Licensing Authority and the Responsible Authorities (details below)

### Contact details:

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

Telephone: 01444 477419

Email: [licensing@midsussex.gov.uk](mailto:licensing@midsussex.gov.uk)

## Appendices

### **MID SUSSEX COUNCIL**

### **SUPPLEMENTARY GUIDANCE PACK**

#### **(To be read in conjunction with the Licensing Policy)**

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



**Document 1****GLOSSARY**

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

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

**The Act**

The Licensing Act 2003

**Appeals**

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

**Authorised Persons**

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

**Closure Order**

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

**Club Premises Certificates**

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

**Conditions**

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

**Designated Premises Supervisor (DPS)**

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

**Guidance**

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

### **Late Night Refreshment**

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

### **Licensable Activities**

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

### **Licensing Authority**

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

### **Licensing Objectives**

The objectives of licensing set out in the Act:

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

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

### **Mandatory Conditions**

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

### **Minor Variation**

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

### **Objection Notice**

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

### **Operating Schedule**

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

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

### **Personal Licence**

A licence granted to an individual that authorises that person to undertake the sale by retail of alcohol or to authorise the sale by retail of alcohol in accordance with an appropriate Premises Licence. The licence is valid indefinitely, although ceases to have effect when revoked, forfeited, surrendered or suspended. A

Personal Licence Holder is not required where alcohol is not permitted to be sold at the premises concerned. A Personal Licence Holder is also not required for the supply of alcohol in a club that holds a Club Premises Certificate. The Police can object to the granting of a Personal Licence, but only where the applicant has a relevant offence as defined by the Licensing Act 2003.

### **Premises**

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

### **Premises Licence**

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on death, insolvency etc. of the holder. Applications are dealt with by the Local Authority Licensing and Enforcement Committee or Sub-Committee or Officers in the area where the premises are situated. There may be more than one Premises Licence for each premises.

### **Provisional Statement**

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

### **Qualifying Club**

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

### **Regulated Entertainment**

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

Entertainment:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance; and
- Entertainment of a similar description to the performance of live music, playing of recorded music or a performance of dance.

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for the purposes which include the purpose, of entertaining that audience.

#### *Entertainment Facilities*

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

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

### **Relevant Representations**

The Licensing Act 2003 does not use the term "objections". Instead, Responsible Authorities and other persons may be able to make relevant representations about an application for a Premises Licence or a Club Premises Certificate on the effect of the grant on the promotion of the licensing objectives. They must not be frivolous or vexatious.

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

### **Responsible Authorities**

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

### **Review of Licence/Certificate**

Where a Premises Licence/Club Premises Certificate is in force, an Interested Party or Responsible Authority may apply, subject to Regulations, to the Licensing Authority for it to be Reviewed. The Licensing Authority must hold a hearing to review the licence/certificate and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the Designated Premises Supervisor (only in the case of a Premises Licence), suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

### **Sale by Retail of Alcohol**

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

### **Temporary Event Notice**

A Notice in a prescribed form must be served on the Licensing Authority by the individual who proposes carrying out the licensable activities and is referred to as the premises user.

All sales of alcohol will be made by or under the authority of a premises user. Certain prescribed information must be supplied. The Police must consider the Notice, if they object a hearing must be arranged.

- Duration – they are limited to events lasting for up to 168 hours;
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 15 occasions in a calendar year, but are subject to an overall aggregate of 21 days use; and
- The number of notices given by one individual within a given period of time – a Personal Licence Holder is limited to 50 notices in a calendar year, and any other person to 5 notices in a similar period. (If these conditions are not fulfilled, the temporary event would require a Premises Licence if it were currently unlicensed for the activity involved).

### **Transfer**

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

RESPONSIBLE AUTHORITY	ADDRESS	CONTACT DETAILS
1. The Licensing Authority – Business Unit Leader Environmental Health	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:licensing@midsussex.gov.uk">licensing@midsussex.gov.uk</a>
2. Chief Officer of Police – Sussex Police	F.A.O. Licensing Officer Worthing Police Station Centenary House Durrington Lane Worthing BN13 2PQ	Tel: 101 x North Downs Licensing Team – Horsham Email: <a href="mailto:WestSussex.Licensing@sussex.police.uk">WestSussex.Licensing@sussex.police.uk</a>
3. West Sussex Fire & Rescue Service	West Sussex Fire & Rescue Service HQ County Hall Chichester West Sussex PO19 1RQ	Tel: 01403 213280 Email: <a href="mailto:Protection.NorthernTeam@westsussex.gov.uk">Protection.NorthernTeam@westsussex.gov.uk</a>
4. Team Leader – Food & Safety Team	Mid Sussex District Council Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:healthandsafetyenforcement@midsussex.gov.uk">healthandsafetyenforcement@midsussex.gov.uk</a>
Or The Health & Safety Executive	Or The Council Offices Station Road East Oxted Surrey RH8 0BT	Or Tel: 0300 003 1747
5. District Planner	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:planninginfo@midsussex.gov.uk">planninginfo@midsussex.gov.uk</a>
6. Team Leader - Environmental Protection Team	Mid Sussex District Council Oaklands Oaklands Road Haywards Heath RH16 1SS	Tel: 01444 458166 Email: <a href="mailto:envhealth@midsussex.gov.uk">envhealth@midsussex.gov.uk</a>
7. Trading Standards	WSCC Trading Standards Service 4th Floor, County Hall North Chart Way Horsham RH12 1XH	Tel: 01243 642124 Email: <a href="mailto:trading_standards@westsussex.gov.uk">trading_standards@westsussex.gov.uk</a>
8. The Director of Social & Caring Services	Child Protection ~ WSCC Children's Access Point 4th Floor, County Hall North Chart Way Horsham RH12 1XH	Tel : 01403 229900 Email: <a href="mailto:socialcare@westsussex.gov.uk">socialcare@westsussex.gov.uk</a>
9. West Sussex Public Health	The Director of Public Health Public Health Licensing West Sussex County Council 1 <sup>st</sup> Floor The Grange County Hall Campus Chichester PO19 1QT	Tel: 0330 22 28683 Email: <a href="mailto:PublicHealth.Licensing@westsussex.gov.uk">PublicHealth.Licensing@westsussex.gov.uk</a>

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

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

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

### 3 The Operating Schedule

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

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

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

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

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

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

4 Capacities in premises.

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

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

5 Fire safety

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

6 Copyright and Royalties

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

7 Door Supervisors

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

8 Personal Licences (see also LA2003 Section 111 onwards)

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

- Be aged 18 years or older.
- Possess a licensing qualification accredited by the Secretary of State.
- Not have had forfeited a personal licence within 5 years of his or her application and
- The police have not given notice of objection following notification of any unspent relevant offence or foreign offence or

- The police have given an objection notice because of a conviction for an unspent relevant offence or a foreign offence but the Licensing Authority has not considered it necessary to reject the application on crime prevention grounds and
- The applicant has paid the appropriate fee to the Licensing Authority.

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

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

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

## 9 Variation of Existing Premises Licence and Club Premises Certificate

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

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

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

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

This procedure cannot be used as follows:

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

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



10 Major Events

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

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

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

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

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

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

Further details about reviews including the relevant forms can be found at GOV.UK website, details in Appendix 4

**DOCUMENT 4**

**INTERNET SOURCES OF INFORMATION ON THE LICENSING ACT 2003**

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

**Advertising Applications**

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

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

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

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

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

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

**PUBLIC NOTICE**

**Licensing Application  
Licensing Act 2003**

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

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

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

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

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

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

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

**DOCUMENT 6**

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

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

**Public Safety Measures / Crime Prevention**

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

**DOCUMENT 7****GUIDANCE ON THE PREVENTION OF PUBLIC NUISANCE**

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

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

**DOCUMENT 8**

**GUIDANCE ON THE PROTECTION OF CHILDREN FROM HARM**

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

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

**DOCUMENT 9**

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

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

**Introduction**

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

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

The leaflet covers matters such as: -

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

**Legal Responsibilities**

In addition to licensing controls, the Council has a duty under the Environmental Protection Act 1990 to investigate noise complaints concerning all types of premises and if a noise nuisance is found the Council must require the person responsible, by Notice, to take steps to ensure that the nuisance is abated. Failure to comply with the Notice is an offence punishable by a fine of up to £20,000 in the Magistrates Court.



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

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

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

## **Noise Sources at Licensed Premises and Practical Tips for Controlling Them**

### Amplified music and entertainment

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

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

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

#### *Tips to control entertainment noise:*

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

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

### Patrons

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

### *Tips to control noise from patrons:*

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

### Deliveries

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

### *Tips to control noise from deliveries:*

Ensure deliveries are not made late at night or early in the morning.

When loading or unloading takes place consideration should be given to working methods, which minimise noise.

### Beer Gardens and Children's Play Areas

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

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

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

### Cleaning and Bottling Out

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

*Tips for controlling noise from cleaning and bottling out:*

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

Plant & Equipment

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

*Tips for controlling noise from plant & equipment:*

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

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

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

Contacting The Council For Further Advice

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

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

Telephone: 01444 477292  
e-mail: [envhealth@midussex.gov.uk](mailto:envhealth@midussex.gov.uk)

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

#### Contacting Specialist Consultants

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

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

Telephone: 01727 848195  
or via e-mail at [www.ioa.org.uk](http://www.ioa.org.uk)

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

Tel. 02079286006  
or via e-mail at [www.cieh.org](http://www.cieh.org)