

Chesterfield Borough Council

Statement of Licensing Policy

Licensing Act 2003



Licensing Act 2003

Statement of Licensing Policy under the Licensing Act 2003

1.0 Introduction

- 1.1 Chesterfield is an historic market town at the heart of the north-eastern part of Derbyshire. It has one of the largest open air markets in the country with a Charter dating back to 1204. Its famous parish church, with its crooked spire, now occupies the site of the original Roman fort. The town has expanded as the commercial and retail centre for the area, becoming the largest town in the administrative County of Derbyshire. During the last two decades the traditional industries have declined and new successful employment opportunities relevant to the 21st Century have been developed.
- 1.2 The population of the Borough is 98,845 (2001 Census). Chesterfield serves as a sub-regional centre and therefore effectively also provides employment, leisure and retail services for a population of 250,000.
- 1.3 Chesterfield Borough Council's vision for our town is;

Inspiring Pride, Aspiring to be the Best.

Working for a safer, cleaner, greener, thriving community

Working in partnership with other agencies, our long term priorities are:

- A Sustainable Community – a flagship Sustainable Community by 2026.
- An Accessible, Equal and Cohesive Community – An inclusive Borough where everybody feels valued and has equal access to all local service and employment opportunities.
- A Living Community – Every household to have the opportunity of a decent home of their choice, which is affordable and accessible.
- A Working and Learning Community – A thriving economy in which everyone has the opportunity of a good quality job with access to the skills and training they need.
- A Safe, Healthy and Active Community – Everyone to be able to have a healthy lifestyle and to have a strong

resilient cohesive community, safe from harm, with low crime rates and free from the fear of crime.

To achieve our priorities we will:

- Lead and empower our community and develop partnership working.
- Develop high quality services.
- Develop, empower and value our employees.
- Be innovative.

1.4 We recognise the clear connections between the Licensing Act 2003 and our aspirations for the Borough of Chesterfield.

Meaning of Comments Boxes

All comments boxes provided alongside the Licensing Statement do not form part of the Licensing Statement. Comments are not intended to provide an authoritative or comprehensive statement of the law and do not constitute professional or legal advice.

2.0 Aim of Chesterfield Borough Council's Licensing Statement

2.1 In adopting this licensing statement the Council recognises the need to;

- secure the safety and amenity of our communities
- facilitate a safe and sustainable licensed trade that contributes to the economy and vibrancy of the Borough;
- reflect the needs of the Borough's community in relation to its cultural needs and diversity by supporting licensable activities, including live music, dancing, theatre and the other cultural experiences offered by such activities.

2.2 To achieve this aim the Council is committed to partnership working with the Responsible Authorities, commerce, including the licensing trade, residents and others towards the promotion of the objectives as set out in this licensing statement.

2.3 The licensing statement sets out how we intend to promote the licensing objectives pursuant to section 5 of the Licensing Act 2003 (hereafter referred to as the 2003 Act). In accordance with the 2003 Act, the licensing statement will be reviewed at least every three years. In the preparation and publication of this licensing statement, the Council has had regard to the guidance issued by the Secretary of State for Culture Media and Sport under section 182 of the 2003 Act (hereafter referred to as "section 182 guidance").

Comment

Before determining its licensing statement, 'the Council' must consult the following;

- The chief officer of Derbyshire Constabulary;
- Derbyshire Fire and Rescue Service
- Such persons the Council considers to be representative of holders of existing licenses and certificates issued by the Council under the Licensing Act 2003.
- Such other persons as the authority considers to be representative of business and residents in its area.

3.0 Scope of the Statement of Licensing Policy

3.1 The Council's Statement of Licensing Policy (hereafter referred to as 'licensing statement') is concerned with the administration of the licensing functions required of the Council under the 2003 Act.

4.0 Interpretation

4.1 Any words or expressions in this licensing statement have the meanings assigned to them under the 2003 Act or regulations made thereunder or, in absence, under section 182 guidance or, in absence, guidance produced by the Council. Nothing in the licensing statement can be regarded or interpreted so as to prejudice the 2003 Act or regulations made thereunder.

5.0 The Council's licensing function and the licensing objectives

5.1 The Council will carry out its licensing functions with a view to promoting the four licensing objectives in accordance with the requirements of the 2003 Act. In carrying out its licensing functions, the Council will have regard to the Secretary of State's guidance issued under section 182 of the 2003 Act and its licensing statement.

5.2 The licensing objectives are:

- *The Prevention of Crime and Disorder;*
- *Public Safety;*
- *The Prevention of Public Nuisance; and*
- *The Protection of Children from Harm*

The four licensing objectives have equal importance.

5.3 The Council's licensing functions are relevant to the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, concerned with one or more of the following:

- Retail sale of alcohol
- Supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of **regulated entertainment**, given the meaning in Schedule 1 of the 2003 Act

- The supply of **late night refreshment** given the meaning in Schedule 2 of the 2003 Act
- Personal Licences

Comment

Regulated entertainment is defined in Schedule 1 of the 2003 Act. It includes the performance of a play; film exhibitions, indoor sporting events, boxing or wrestling events, performing live music and playing recorded music (except incidental music), dance performances, and entertainment of similar descriptions

Late night refreshment is defined in Schedule 2 of the 2003 Act. It means the supply of hot food or hot drink to members of the public on or from any premises at any time between the hours of 11.00 p.m. and 5.00 a.m. The 2003 Act includes a number of exemptions.

5.4 Any terms and conditions which are either volunteered by applicants or imposed by the Licensing Authority following a hearing will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and **in the vicinity** of those premises and places. In accordance with section 182 guidance, licence conditions may only relate to matters which the licensee can be expected to control.

5.5 The Council recognises that the 2003 Act is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. The Council will not, therefore, attempt to control such behaviour through the exercise of its licensing functions.

6.0 The Council's approach to applications for premises licences & club premises certificates

6.1 The Council recognises that each licensing application must be dealt with on its own individual merits.

6.2 Applicants should set out their proposals for addressing the licensing objectives particularly in their operating schedule/club operating schedule. These proposals should reflect the necessary safeguards capable of being formulated into conditions which will be part of the licence or certificate.

6.3 Although Applicants are not required to seek the views of Responsible Authorities before submitting applications to the Licensing Authority, the Council encourages Applicants to do so

Comment

In the Vicinity
Whether or not matters can be regarded as being "in the vicinity" of licensed premises or places is ultimately a matter of fact to be decided by the courts in cases of dispute.

in order to minimise the number of disputes which may arise after the application has been submitted.

6.4 Whilst not a requirement of the 2003 Act, applicants may wish to provide supporting material, not forming part of their operating Schedule/club operating schedule, to assist the responsible authorities by confirming the arrangements in place under separate legislation which have the potential to inappropriately over-lap any licence conditions if included in their operating schedule/club operating schedule. Please also refer to paragraphs 10.1, 12.2 and 12.3.

6.5 The details provided in the operating schedule/club operating schedule accompanying any application for a premises licence, club premises certificate or variation thereto represent the key provision for an applicant to demonstrate to the Council and the responsible authorities the steps they intend to take to promote the four licensing objectives.

To minimise the possibility of relevant representations from responsible authorities and interested parties applicants are encouraged to provide suitable and sufficient details, based on the licensable permissions they seek and the location, character, condition, nature & extent of the proposed use and the customer profile likely to resort to the premises and any other relevant matter. **The Council encourages Applicants to discuss proposed operating schedules with Responsible Authorities before formally submitting applications to the Council.**

6.6 The application must demonstrate its regard to the location, character, condition, nature & extent of the proposed use and the customer profile likely to resort to the premises and any other relevant matter.

6.7 The process for applying for a Premises Licence or a Club Premises Certificate includes the completion of an application form, enclosing supporting documents, the payment of a fee and submitting the application to the Council (and at the same time, Applicants are required to serve the Responsible Authorities with a copy of the application). Applicants are required within a specific time period to advertise applications in the local press and on the premises. Full details of the application process are available from the Licensing Counter at the Town Hall. **Applications will not be valid unless properly made.** Applicants will be informed of the reason(s) for rejection of the application.

6.8 Nothing in the licensing statement will prevent any person from applying for a variety of permissions.

=====
" *Comment* "
" Any application not "
" properly made will be "
" returned to the applicant "
" and the time-scales "
" contained in the 2003 Act "
" will not begin until a "
" properly made application "
" is received. "
"====="

6.9 The 2003 Act allows for a simplified process for Minor Variations where the variations will not impact adversely on the licensing objectives. Minor variations could be:

- (1) There are minor changes to the structure.
- (2) Small adjustments to the licensing hours.
- (3) The removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions.
- (4) The addition of certain licensable activities.

The applications do not need to be advertised or copied to the Responsible Authorities.

6.10 Normally the Licensing Committee will undertake a site visit of premises where a hearing of the application is necessary. The site visit will usually take place immediately prior to the hearing.

7.0 Right to Make Representation and Consultation

7.1 In relation to a premises licenses and a club premises certificates, the Council must consider relevant representations as part of its determinations, in accordance with the 2003 Act. **Relevant representations** can only be made by **interested parties** or **responsible authorities** within prescribed time periods. Where the Council is of the opinion that representations are frivolous or vexatious, the 2003 Act prohibits them being considered as relevant representations.

7.2 An individual wishing to approach Councillors to ask him/her to represent his/her views should ensure that the Councillor(s) is/are not part of the Licensing Sub-Committee dealing with the licence application. This can be checked by contacting Democratic Services, Chesterfield Borough Council, Town Hall, Chesterfield, Derbyshire, S40 1LP tel: 01246 345228/9 or democratic.services@chesterfield.gov.uk.

Comment

Relevant representations may only relate to:

- matters about the likely effect of the grant of the premises licence on the promotion of the licensing objectives; or
- a proposed designated premises supervisor if made by the Chief Constable. Club premises are not required to have a designated premises supervisor.

Interested Party means any of the following;

- a person living in the vicinity of the premises;
- a body representing persons who live in that vicinity;
- a person involved in a business in that vicinity;
- a body representing persons involved in such businesses.
- A Local Councillor (district Councillor)

Responsible Authority means any of the following;

- the Chief Constable of Derbyshire Constabulary;
- Derbyshire Fire and Rescue Service;
- the health and safety enforcing authority under Health and Safety at Work etc. Act 1974;
- the Council as the local planning authority; or under its powers to minimise or preventing the risk of pollution of the environment or of harm to human health;
- Derbyshire County Council's Child Protection Committee;
- Other Councils in whose area part of the premises is situated if the premises straddle the Borough boundary; or,
- Trading Standards

The 2003 Act contains additional measures for interested parties and responsible authorities to make representations about a premises licence and club premises certificates.

7.3 The 2003 Act and regulations prescribed by the Secretary of State detail the consultation requirements placed on the Council and applicants. The Council will inform Community Forums and Town Councils of new premises/club premises applications in their areas.

7.4 Any licensed activity has the potential to generate noise and vibration, giving rise to complaints. Where the premises is located within the vicinity of residential, or other sensitive premises, consideration needs to be given to the impact of the activities on premises in the vicinity. Those in possession of licences and consents have a statutory duty to prevent excessive noise/vibration and failure to do so can lead to formal action. Pro-active noise/vibration control in a variety of forms must be an essential measure for all licensed premises, and the management of all licensed premises should implement policies that address noise/vibration, as appropriate. Necessary measures will vary in accordance with what is reasonable

Comment

The meaning of "club premises"

The term licensed clubs is not to be confused with 'nightclubs'. The 2003 Act defines club premises as those premises which are a 'qualifying' members club to which public access is restricted and where alcohol is supplied other than for profit.

having regard to the size, nature and location of the business, and of potential problems. As a “responsible authority” under the 2003 Act, the Council’s Pollution Control Section will expect applicants, to submit relevant details as part of their operating schedule/club operating schedule.

8.0 Cumulative Impact of a concentration of licensed premises

8.1 “Cumulative impact” is not mentioned specifically in the 2003 Act but means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its statement of licensing policy.

8.2 The Council recognises where the number, type and density of premises selling alcohol for consumption on the premises are unusual in a particular area, serious problems of nuisance and disorder may arise or begin to arise outside or some distance from the licensed premises. In such circumstances the impact of those premises when taken as a whole may be greater than that arising from individual premises. It may not be possible to distinguish individual premises as being the sole cause, or even a major contributing factor, of a particular problem. It is the combined effect of all of the premises, which causes problems for a wider area and potentially undermines the licensing objectives. In such circumstances the Council may consider it both necessary and appropriate to adopt a *Special Policy* to address cumulative impact.

8.3 The Council will not consider the question of ‘need’ in determining an application. This is not a matter for a licensing authority or its licensing statement.

‘Need’ is a matter for planning committees and for the market and should be considered in the context of an absence or excess of activities/premises.

8.4 Quotas, which pre-determine the individual merits of any application – even in respect of premises selling alcohol for consumption on those premises, will not be used by the Council as they have no regard to these individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the local community.

8.5 Licence conditions can only focus on matters which are within the control of individual licensees and others in possession of

relevant authorisations, accordingly these matters will centre on the premises being used for licensable activities and the vicinity of those premises. Whether or not incidents can be regarded as being 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.

- 8.6 Where relevant representations are received from a responsible authority or interested party, supported by the appropriate evidence, the Council may consider the adoption of a *Special Policy*.
- 8.7 The steps the Council would follow in considering whether to adopt a *Special Policy* within the licensing statement are;
- identification of concern about crime and disorder or public nuisance;
 - consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
 - consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole licensing statement;
 - subject to that consultation, inclusion of a *Special Policy* about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the Statement of Licensing Policy;
 - publication of the *Special Policy* as part of the licensing statement required by the 2003 Act.
- 8.8 The effect of adopting a *Special Policy* is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 8.9 A *Special Policy* would not prevent the Council considering further applications for premises licences, as these would need to be assessed on their individual merits taking into account the foreseeable impact on the relevant area. It would be incumbent on the applicant to provide the proportionate level of detail to

address these special circumstances. Applicants would need to address the *Special Policy* issues in their operating schedule/club operating schedule in order to rebut such a presumption. However, it must be stressed that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the council may lawfully consider giving effect to its *Special Policy*. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule/club operating schedule submitted.

8.10 The absence of a *Special Policy* does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

8.11 It would normally not be justifiable to adopt a *Special Policy* on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises.

8.12 The Council has adopted a Special Policy (a Cumulative Impact Policy) with effect from 1 January 2012 in relation to part of Chesterfield town centre which is covered by the following roads: Cavendish Street, Church Walk, Church Way, Corporation Street, Elder Way, Holywell Street, Knifsmithgate, part of Saltergate, St. Mary’s Gate and Stephenson Place. This is referred to as “the designated area”. The Cumulative Impact Policy creates a rebuttable presumption that a new application relating to premises in the designated area will be refused if objections are received from Responsible Authorities and/or Interested Parties. Applicants for licences or certificates will need to demonstrate that they will not add to the problem in the designated area. If no objections are received to an application for premises within the designated area, the application must be granted even though the policy exists. The Cumulative Impact Policy will not apply to existing licensed premises or club premises in the designated area unless an application is made to vary the licence or certificate and the effect of the variation is likely to add to the existing cumulative impact. A map showing the designated area is appended to the Licensing Policy."

8.13 The Council will use its role as a member of the Community Safety Partnership, and in relation to its other obligations, to act in the best interests of the Borough of Chesterfield in addressing violent crime, including that associated with licensable activities.

8.14 Furthermore, the Council recognises other mechanisms exist outside the licensing regime that are available to control cumulative effect. This broad approach would include, for example:

- planning controls

Comment

The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 restricts the consumption of alcohol in areas designated by the Council

11

- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- powers of the Council to designate parts of the Borough as places where alcohol may not be consumed publicly
- enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- the confiscation of alcohol from adults and children in designated areas
- Derbyshire Constabulary's powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- the Council's power to close noisy licensed premises where permitted under the Anti-Social Behaviour Act 2003
- the power of Derbyshire Constabulary, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

These should be supplemented by other local initiatives that similarly address these problems.

9.0 Licensing Hours

- 9.1 The Council will determine licensing hours on the individual merits of each application. The Council recognises that longer licensing hours for the sale of alcohol can avoid large numbers of people leaving premises at the same time, which in turn reduces the friction at late night fast food outlets, taxi ranks and other sources of transport which can lead to disorder and disturbance. The Council will not impose conditions that artificially fix opening hours for any premises or area of the Borough (so-called zoning).

Comment

There may be a need to restrict hours if, for instance, the applicant/ licensee is unable to adequately control noise/vibration. The Statement of Licensing Policy is referring to the avoidance of limiting hours artificially.

- 9.2 Following the making of relevant representations, the Council may impose stricter conditions with regard to noise control in areas which have denser residential accommodation, although this will not prejudice consideration of individual applications where the licensing objectives are observed.
- 9.3 With regard to shops, stores and supermarkets, the Council will allow the sale of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there is a very good reason for restricting them, such as disorder or disturbance. Derbyshire Constabulary would normally be asked to make comment on any alleged patterns of disorder or disturbance.
- 9.4 Where specific restrictions on trading hours have been applied by the planning authority, licensing hours will not be permitted beyond these times.

10.0 Use of Standardised Conditions

- 10.1 Following the making of relevant representations, any conditions that are imposed by the Licensing Authority to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned. Conditions will only be imposed where there is a need to promote the licensing objectives. Standardised conditions will be avoided, but the Council may draw from the pools of conditions contained in annex D of the DCMS Guidance.

Comment

There are two compulsory conditions where alcohol is sold;

- *No alcohol may be supplied unless there is a designated premises supervisor in respect of the premises licence or if the designated premises supervisor does not hold a licence or has had his/her personal licence suspended; and (b) every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.*
- *There are also other mandatory conditions relative to children and the exhibition of films, and that where door supervisors are required as a condition, they must be licensed by the Security Industry Authority*
- *Note: A designated premises supervisor is not required for a Community premises as long as the premises have applied to the Licensing Authority to disapply this condition.*

11.0 Crime and Disorder

- 11.1 The Council will expect the applicant to detail (if necessary and/or appropriate), in their operating schedule/club operating schedule, the steps he/she proposes to ensure the deterrence and prevention of crime and disorder. The following issues are

given to assist applicants who may need to comment on them in their operating schedule/club operating schedule;

- The applicants intention to engage with recognised local liaison groups, such as Pub Watch, Shop Watch and/or other groups/organisations (e.g. the Council, Derbyshire Constabulary, the Community Safety Partnership and other agencies) working to promote the licensing objectives in the Borough. Applicants might express their intention to adopt reasonable safeguards promoted by the recognised groups/organisations.
- Acknowledgement and implementation of the Code of Practice produced by the Portman Group which seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older
- Provision of CCTV for inside and outside the premises and recording equipment
- Radio network communication
- Search facilities, including, as appropriate metal detection equipment for concealed weapons etc.
- Use of safety/shatter-resistant glasses/receptacles;
- Managing drinks promotions responsibly. Applicants may wish to refer to the Code of Practice published by the British Beer and Pub Association titled “Point of Sale Promotions – Standards for the Management of Responsible Drinks Promotions including Happy Hours” which can be downloaded at www.beerandpub.com.
- Measures address the incidence supply and consumption of drugs
- Proof of age monitoring arrangements
- Signage and crime prevention notices
- Measures to discourage racial and other abuse crime
- Door supervision
- Recording of incidents
- Capacity limits
- Any other relevant matter(s)

12.0 Public Safety

12.1. Licensees must ensure the physical safety of people using the relevant premises or place.

12.2. The Council recognises the protection afforded by the Health & Safety at Work, Fire Precautions and other safety legislation, and will strive to avoid the imposition of conditions that represent a duplication of existing legislation and other regulatory regimes that place obligations on duty holders. However, where the legislation does not cover the unique

circumstances of some regulated activities, the Council may, at a hearing following relevant representations consider imposing conditions to premises licenses and club premises certificates where these are necessary for the promotion of the public safety licensing objective.

12.3 The Council will expect the applicant to detail (if necessary and/or appropriate), in their operating schedule/club operating schedule, the steps he/she propose to ensure public safety. The following issues are given to assist applicants who may need to comment on them in their operating schedule/club operating schedule;

- The relevance to and, if applicable, the implementation of Health & Safety at Work, Fire Precautions and other safety legislation
- Provision of competent personnel
- Maintenance of electrical, fire detection/alarm, emergency lighting, gas appliances and other relevant plant and systems
- Capacity limits
- The facilities, arrangements and procedures to minimise the harmful effects of drug misuse
- Any other relevant matter(s).

13.0 **Public Nuisance**

13.1 The applicant will only be expected to prevent public nuisance that is under their direct control. The following issues are given to assist applicants who may need to comment on them in their operating schedule/club operating schedule;

- Prevent noise and vibration escaping from the premises, such measures may include sound proofing, air conditioning, acoustic lobbies, sound limitation devices and if applicable, a noise management plan;
- Prevent disturbance by customers arriving at, or leaving the premises, which is usually of greater significance later into the evening and in the early morning. Details may address the potential disturbance caused by queuing;
- Control nuisance associated with public disturbance;
- The generation of odour, for example from the preparation of food;
- Prevent potential litter problems in the vicinity of and caused by their activities, including, for example; the distribution of

```
=====
      Comment
=====
Applicants may feel that it
is appropriate to seek
third party specialist
advice on the management
of noise/vibration.
=====
```

flyers, fly posting, food packaging left by customers from late night refreshment premises;

- Any other relevant matter(s)

13.2 The Council recognises that the control of nuisance that is not within the vicinity of the premises or the responsibility of the licence holder falls outside the scope of the 2003 Act.

13.3 The Council recognises the rich cultural benefit of live entertainment/performances, including; music, such as singing, jazz, opera and other types; dancing; carnival events, comedians, children's entertainers and physical performance artists (e.g. jugglers and mimes) and theatre. Our cultural strategy promotes the enjoyment, involvement and celebration of cultural experiences. The potential for limited disturbance in neighbourhoods will be balanced with these benefits, particularly for children.

14.0 Children

14.1 The Council recognises the great variety of premises for which licences may be sought, for instance theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. The Council will expect applicants to detail (if necessary and/or appropriate), in their operating schedule/club operating schedule, the steps they propose to take to ensure the protection of children from harm.

Comment

It is an offence under section 145 of the 2003 Act for an unaccompanied child (under the age of 16 years) to be present in premises primarily or exclusively for the supply or sale of alcohol on those premises. Children must be accompanied by an adult.

14.2 The Council will not impose conditions that restrict access to children to any type of premises unless it is considered necessary to protect them from harm. Example premises which would give rise for concern are, for example;

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

Comment

It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. Premises that are operating as Sex Establishments will receive

- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

14.3 It would be unusual for the Council to completely exclude children from premises. The following options may be appropriate for inclusion in the operating schedule/club operating schedule;

- limitations on the hours when children may be present
- age limitations
- limitations or exclusions when certain activities are taking place
- requirements for accompanying adult
- exclusion of people under 18 years old from the premises when certain licensable activities are taking place.

14.4 The Council will not impose any condition which requires the admission of children to any premises.

14.5 If there are no conditions imposed or volunteered restricting the access by children then the decision as to whether or not children should remain on the premises is a matter for the licence holder's discretion subject to the provisions of the Licensing Act 2003.

14.6 The Council will liaise with Derbyshire Constabulary and Derbyshire County Council's Trading Standards about the extent of unlawful sale and consumption of alcohol to minors and, as appropriate, will be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions.

14.7 The Council recognises the protection afforded to children under The Protection of Children Act 1999 (hereafter referred to as "the 1999 Act") which places obligations on Child Care Organisations. Additionally, other organisations are able to make use of the scheme set up to support the 1999 Act and the Criminal Records Bureau. The holder of a premises licence, a club premises certificate and premises users must take appropriate steps, including, where necessary, the use of these services to ensure the protection of children from harm.

```

=====
" The Protection of Children Act
" 1999 defines 'child care
" organisations' to means an
" organisation;
" a) which is concerned with the
" provision of accommodation of,
" social services or health care
" services to children or the
" supervision of children;
" b) whose activities are regulated
" by virtue of any prescribed
" enactment, and
" c) which fulfils such conditions
" as may be prescribed under
" 'the 1999 Act'.
=====

```

Comment
The 2003 Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 – the British Board of Film Classification or the British Board of Film Classification.

Cinemas and Children

14.8 In the case of premises giving film exhibitions, the Council expects applicants to include in their operating schedule/club operating schedule arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or other body approved. The Council may in the event of very good local reasons choose to classify a film itself.

15.0 Temporary Event Notices

15.1 Applicants are encouraged to provide at least three months notice to the Council of their intention to hold these events.

16.0 Integrating Strategies

16.1 The Council will ensure its licensing function promotes the licensing objectives through its decision making process and by appropriate use of its powers (under the 2003 Act and more widely), observance of its responsibilities and through liaison and partnership work. The Council will secure proper integration with the Local Plan, local crime prevention, planning, community safety, transport, tourism and cultural strategies and plans in carrying out its licensing function and, more widely, in the interest of the Borough of Chesterfield. Applicants are encouraged to consider the Council's integrating strategies when making applications and determining their operating schedule/club operating schedule.

16.2 The Council recognises the importance of attaching licence conditions that reflect local crime prevention strategies.

16.3 Where the Council has concerns or receives valid representations from Derbyshire Constabulary, it will, as necessary, liaise with Derbyshire County Council's Public Transport Unit and, where necessary, other bodies in relation to the need for the swift and safe dispersal of people to avoid concentrations which produce disorder and disturbance.

16.4 Arrangements will be made for the Licensing Committee to receive reports on the following to ensure these are reflected in its considerations;

- the needs of the local tourist economy and cultural strategy for the Borough; and,
- the employment situation in the Borough and the need for investment and employment where appropriate.

Comment

The Licensing Act 2003 provides for certain occasions when small – scale events where no more than 500 people at a time and lasting for up to 96 hours do not need a licence providing that advance notice is given to the Police and the Licensing Authority. The 2003 Act includes further limitations on the use of Temporary Event Notices. The Police can only object to a Temporary Event Notice if the event is likely to undermine the crime and disorder objective. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice. Any lesser time means that planning may be rushed and haphazard. The 2003 Act states that at least 10 working days notice must be given but the less time that is given may increase the likelihood of a Police intervention being made. 10 working days notice does not include the day the notice is given nor the day the event

Comment

What is a Provisional Statement?

The 2003 Act provides a mechanism whereby those engaged in or about to engage in construction or development work at premises to be used for licensable activities, or already used for those activities, can obtain a certain degree of assurance about their potential trading conditions. By obtaining a **provisional statement** they can receive, at an early stage, a statement describing the likely

- 16.5 The Council will expect each applicant to have obtained the appropriate planning consent in respect of the premises/club premises applied for to avoid duplication and inefficiency. Applications for licences should not be a re-run of the planning application and should not cut across decisions taken by the local planning committee. The Council recognises it may receive applications for provisional statements under the 2003 Act in relation to premises applications even though the planning process has not progressed beyond outline planning consent.

The licensing committee may refuse to grant a licence following representations from the local planning authority if the activity to be authorised would amount to an unlawful use of the premises - it will be for the applicant to demonstrate any special circumstances to justify a departure from this policy.

- 16.6 As necessary to enable the planning committee to have regard to such matters when taking its decisions and avoid unnecessary overlap, the licensing committee will provide reports to the planning committee on the situation regarding licensed/club premises in the area. Reports to the planning committee may include information concerning the general impact of alcohol related crime and disorder.

17.0 Promotion of Racial Equality

- 17.1 The Council recognises that the Equality Act 2010 places an obligation on all public authorities to have regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations.

18.0 Human Rights Act 1998

- 18.1 The Council will implement the 2003 Act in a manner consistent with the Human Rights Act 1998.

19.0 Avoidance of Duplication with other regulatory regimes

- 19.1 The Council acknowledges the efforts and responsibilities of other regulators, for instance Derbyshire Constabulary, Derbyshire Fire and Rescue Service, Health and Safety Enforcing Authority, under other legislation, which benefit the promotion of the licensing objectives. The Council is minded to only impose conditions on premises licences and club premises certificates where other legislation does not include sufficient scope to ensure the promotion of the licensing objectives.

19.2 Where other legislation does not cover the unique circumstances of some licensable activities, the Council will consider attaching conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives and if relevant representations have been received.

20.0 Enforcement

- 20.1 The Council will provide adequate resources to enforce the requirements of the 2003 Act in accordance with Environmental Service's Enforcement Policy, any enforcement protocols agreed with other agencies and any guidance to enforcement authorities issued by the Government.
- 20.2 In determining the most appropriate course of action to secure the licensing objectives, the Council will be mindful of other separate legislation and other enforcement bodies' powers. Additionally, the Council will take into account any enforcement protocols developed with these organisations and our partners, including Derbyshire Constabulary.

21.0 Designated Premises Supervisor and Personal Licence holders

- 21.1 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.
- 21.2 The Council accepts that it may not be necessary for every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder. – except in Community Premises that have applied for this condition to be lifted. Premises at which alcohol is sold or supplied must ensure that there are, based on risk assessment, sufficient arrangements in place for the sale of alcohol which comply with the law.
- 21.3 The Council recognises the responsibility of personal licence holders, particularly the Designated Premises Supervisor in overseeing the day-to-day sale of alcohol. The Council expects there to be clear control in the absence of the Designated Premises Supervisor.

22.0 Review of a Premises Licence or Club Premise Certificate

- 22.1 The Council recognises the importance of its ability to review premises licences. The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection concerning problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm.

Comment

The review of a premises licence or a club premises certificate can be requested at any time by an interested party or a responsible authority provided it is relevant to one or more of the licensing objectives, and is not frivolous, vexatious or is a repetition. The Council will hold a hearing to determine the application for a review.

23.0 Administration, Exercise and Delegation of Functions

- 23.1 The Council recognises many of the decisions and functions under the 2003 Act are purely administrative in nature. In the interest of speed, efficiency and cost-effectiveness, the delegation in the Council's Constitution sets out various duties of its licensing committee and officials. (Table 1 illustrates the Council's Constitution in this respect).
- 23.2 In special cases applications normally dealt with by officers will be passed up for committee determination.
- 23.3 The Council will place a copy of this Policy Statement and appropriate application forms on the Council's website to be available for downloading electronically.

Comment

Negotiated Conditions

The Council encourages Applicants to contact Responsible Authorities to discuss the proposed application and operating schedule before submitting the application to the Council so as to minimise any subsequent disputes. Conditions can only be put on a licence which reflect the terms of the operating schedule which accompanied the application or by the Licensing Committee if a relevant representation has been made. If an Applicant and a Responsible Authority (or an Interested Party) reach an agreement, following a relevant representation which the Responsible Authority (or Interested Party) has made, whereby both parties wish for additional or amended conditions to be put on the licence then the application will still need to be determined by the Licensing Committee.

Table 1**Licensing Delegation Scheme – To be taken from the Council’s Constitution**

Matter to be dealt with	Licensing Committee	Officers
Application for personal licence	If an objection from Derbyshire Constabulary	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If an objection from Derbyshire Constabulary	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If an objection from Derbyshire Constabulary	All other cases
Applications for Interim Authorities	If an objection from Derbyshire Constabulary	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious or repetitious		All cases
Decision to object when the Council is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection from Derbyshire Constabulary to a temporary event notice	All cases	

