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Please ask for:
Democratic Services

13 August 2024

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL LICENSING COMMITTEE to be held on Thursday 22 August 2024 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, AL8 6AE

A G E N D A PART 1

1. APOLOGIES & SUBSTITUTIONS

To note any substitution of Committee Members in accordance with Council Procedure Rules.

2. MINUTES

To confirm as a correct record the Minutes of the meeting held on 18 June 2024 (previously circulated).

3. NOTIFICATION OF URGENT BUSINESS TO BE CONSIDERED UNDER ITEM 7

4. DECLARATIONS OF INTERESTS BY MEMBERS

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

5. PAVEMENT LICENCES POLICY AND FEE APPROVAL (Pages 3 - 32)

Report of the Executive Director (Resident Services and Climate Change)

6. LICENSING ACT POLICY (Pages 33 - 120)

Report of the Executive Director (Resident Services and Climate Change)

7. SUCH OTHER BUSINESS AS, IN THE OPINION OF THE CHAIRMAN, IS OF SUFFICIENT URGENCY TO WARRANT IMMEDIATE CONSIDERATION
8. EXCLUSION OF THE PRESS AND PUBLIC

The Committee is asked to resolve:

That under Section 100(A)(2) and (4) of the Local Government Act 1972, the press and public be now excluded from the meeting for item 9 (if any) on the grounds that it involves the likely disclosure of confidential or exempt information as defined in Section 100A(3) and Part 1 of Schedule 12A of the said Act (as amended).

In resolving to exclude the public in respect of the exempt information, it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PART II

9. ANY OTHER BUSINESS OF A CONFIDENTIAL OR EXEMPT NATURE AT THE DISCRETION OF THE CHAIRMAN

<u>Circulation:</u>	Councillors	J.Cragg	A.Chesterman
		D.Jones	L.Gilbert
		H.Goldwater (Vice-Chairman)	I.Walsh
		J.Weston (Chairman)	K.Bonkur
		B.Sarson	J.Quinton
		R.Trigg	A.Skottowe

Senior Leadership Team
Press and Public (except Part II Items)

If you require any further information about this Agenda please contact Democratic Services, Governance Services on or email – democracy@welhat.gov.uk

Agenda Item 5

Part I

Item No: 0

Main author: Kate Payne

Executive Member: Cllr Kieran Thorpe

All wards

WELWYN HATFIELD BOROUGH COUNCIL
LICENSING COMMITTEE – 22 AUGUST 2024
REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE
CHANGE)

PAVEMENT LICENCES POLICY AND FEE APPROVAL

1 Executive Summary

- 1.1 This report is to clarify the changes to the temporary pavement licensing regime under the Business and Planning Act 2020 (which were implemented as a temporary measure during the Covid pandemic) and the impact of the changes to this regime made by the Levelling Up and Regeneration Act 2023.
- 1.2 The Levelling up and Regeneration Act 2023 became law last year, but the provisions to make the temporary pavement licence scheme permanent were not immediately commenced but has come into force on 31st March 2024. The provisions have introduced changes including a new capped level fee structure for new and renewal applications.
- 1.3 This report asks members to approve the attached pavement licence policy which has been prepared for this new regime.
- 1.4 This report asks members to approve the pavement licence maximum fees for this new regime.

2 Recommendation(s)

- 2.1 That the Licensing Committee agrees to recommend to Full Council, for approval, the new maxima fees of £500 for a new two-year pavement licence and £350 for a renewal pavement licence.
- 2.2 That the licensing committee approve the new policy for pavement licensing.

3 Explanation

- 3.1 Temporary Pavement Licences were introduced by the Business & Planning Act 2020 (BPA 2020) in 2020 to streamline the process of obtaining a pavement licence and help businesses during the Covid pandemic. Section 229 and schedule 22 of the Levelling Up & Regeneration Act 2023 (LU&RA 2023) amends the Business & Planning Act 2020 to make the provision of temporary pavement licencing regime permanent. The commencement date for this amendment was 31 March 2024.
- 3.2 From 31 March 2024 the process for issuing temporary pavement licences under the BPA 2020 became permanent under the LU&RA 2023. A letter and guidance from the Department for Levelling Up, Housing & Communities was

issued to all Local Authorities in England on 2 April 2024. A copy of the letter can be found at Appendix A and the Government Guidance is attached as a link to this report.

- 3.3 The main changes to temporary pavement licensing as a result to the amendment to the BPA 2020 are as follows:
 - 3.3.1 The introduction of maximum standard capped fees for new and renewal applications. The fee levels are capped at a maximum amount of £500 for new applications and £350 for renewal applications. The fee applicable for a temporary pavement licence was previously £100.
 - 3.3.2 The duration of the consultation and determination periods have increased from 7 days to 14 days.
 - 3.3.3 The maximum term for which a licence can be granted has increased to 2 years (from one-year previously).
 - 3.3.4 Provides that pavement licences can also be amended by the local authority with the consent of the licence holder in certain, specified, circumstances.
 - 3.3.5 Inserts a new enforcement schedule providing powers to the local authority to remove furniture if a premises is not abiding by its pavement licence conditions and hours.
 - 3.3.6 Pavement licences will be issued with national and local conditions. The national conditions and local conditions can be found at Appendix B1 and B2.
 - 3.3.7 The 2020 Act sets out two conditions which apply to pavement licences which are granted or deemed to be granted; these are: a no-obstruction condition and a smoke-free seating condition. These apply only to licences granted under the Business and Planning Act 2020, not existing licences permitted under Part 7A of the Highways Act 1980, or other relevant legislation.
 - 3.3.8 One of the benefits of the pavement licence procedure is that once a pavement licence is granted by the local authority, the premises will benefit from deemed planning permission for the furniture for the duration of the pavement licence. This will not change.
- 3.4 Any licence applications for activities licensable under pavement licensing legislation must be granted under the BPA2020. They should not be granted under the Highways Act 1980. However non removeable furniture or furniture other than tables, chairs or stools will still require a licence under the Highways Act 1980. HCC previously issued pavement licences under the Highways Act
- 3.5 The licensing team currently manage a total of four pavement licences, all of which were issued before 31 March 2024 and therefore were licensed under the BPA 2020 before the changes introduced by the Levelling-up and Regeneration Act 2023. These licences will expire on 30 September 2024 in line with the guidance issued from the Department of Levelling Up, Housing and Communities. These licences should be treated as a renewal application if it is made by the licence-holder in respect of the same premises and it is on the same terms as the expired licence.

- 3.6 As the pavement licensing regime has now become permanent, a policy has been prepared for the licensing committee to approve and this is attached at Appendix C.
- 3.7 Hertfordshire County Council have previously issued permanent street café licences issued under the Highways Act 1980.
- 3.8 Officers have already started work to contact the businesses holding pavement licences to inform them of the amendments to the BPA 2020.
- 3.9 Work has commenced in updating our information to the public and to update our application process.

Implications

4 Legal Implication(s)

- 4.1 The Business and Planning Act 2020, as amended by the Levelling-up and Regeneration Act 2023, provides that a person whose use or proposed use of any premises in England is or includes [a] relevant use may apply to the council (the 'Licensing Authority') for a [pavement] licence in respect of those premises.
- 4.2 On receipt of an application the council has a duty to publish the application and to publicise the fact that representations relating to the application may be made to the authority during the 14-day public consultation period.
- 4.3 Within 14 days of the end of the public consultation period the council must determine the application. Before doing so the council must: (a) take account of any representations received during the consultation period; (b) consult the highway authority for the relevant highway to which the application relates; and (c) consult such other persons as the council considers appropriate.
- 4.4 The council may grant a pavement licence only if it considers that, taking into account any conditions subject to which it proposes to grant the licence, nothing done by the licence-holder pursuant to the licence would have any of the effects specified within the Act; e.g. preventing traffic (other than vehicular traffic), particular types of vehicles and statutory undertakers from using the highway.
- 4.5 Pavement licences may be amended by the council, with the consent of the licence-holder where:
 - (a) the licence-holder did not comply with the duty to fix a notice of their application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and to secure that the notice remains in place until the end of the public consultation period;
 - (b) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted/deemed to be granted;
 - (c) as a result of the licence:
 - (i) there is a risk to public health or safety;
 - (ii) anti-social behaviour or public nuisance is being caused or risks being caused; or

(iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence;

(d) anything material stated by the licence-holder in their application was false or misleading,

or

(e) a no-obstruction condition of the licence is not being complied with.

5 Financial Implication(s)

The issue of pavement licences, and administration of the Licensing functions, are met from within the existing budget and staff resources in the Licensing Team. The purpose of the licensing fees charged for applications under the Act are to cover the costs of the Licensing functions.

6 Risk Management Implications

6.1 Any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures. Fees have been calculated on officer time and hourly rates including on costs and meet the statutory maxima.

7 Security & Terrorism Implication(s)

7.1 The Council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism and to consider security and measures to counteract terrorism in public places.

7.2 For security advice regarding the protection of persons using pavement licences local authorities should consult Police Licensing Teams, Designing Out Crime Officers or Counter Terrorism Security Advisors. The authority must also consult such other persons as the local authority considers appropriate.

8 Procurement Implication(s)

8.1 None arising directly from this report.

9 Climate Change Implication(s)

9.1 The proposal appears to result in no increase in the use of water or other materials. All documentation and agreements other than the licence are sent electronically unless specifically requested.

10 Link to Corporate Priorities

10.1 The subject of this report is linked to the Council's Corporate Priority *"enable an economy that delivers for everyone"* as it supports trade through the issuing of licenses. It is also linked to the Council's Corporate Priority *'Together, create opportunities for our communities' - to help us feel safer where we live.*

11 **Equality and Diversity**

11.1 An Equality Impact Assessment (EqIA) has been completed and no negative impact was identified on any of the protected groups under Equalities legislation, and the regime is likely to have a positive impact on some characteristics.

Name of author	Kate Payne 01707 357206
Title	Licensing Team Leader
Date	June 2024

Background papers to be listed

Guidance – [pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/pavement-licences)

Appendices

Appendix A - Letter

Appendix B1 an B2 – National and Local License conditions

Appendix C – WHBC Pavement Licence Policy

Appendix D - EqIA

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Department for Levelling Up,
Housing & Communities

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All Council Leaders and Chief Executives of
English local planning authorities

2 April 2024

Dear [x]

PERMANENT PAVEMENT LICENSING REGIME LEVELLING UP AND REGENERATION ACT 2023 COMMENCEMENT

On 31 March 2024, we commenced the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023. The provisions introduce a permanent pavement licensing regime in England to replace the temporary provisions introduced by the Business and Planning Act 2020. This permanent regime retains the key features of the 2020 regime, intended to streamline processing and reduce costs, but also incorporates some changes, outlined below, to ensure the long-term sustainability of the model.

Amendments set out in the LURA 2023

The LURA introduces several new pavement licensing provisions:

Firstly, the fee cap for a pavement licence application is increasing. It will no longer be capped at £100 but instead be capped at £500 for first time applications and £350 for renewal applications, subject to each local authority deciding the level of fee up to the cap. The increase and fee cap intend to balance both local authority and business interests. This increase in fee cap is intended to allow local authorities to recover the costs of processing, monitoring and enforcing licences.

Under the permanent regime, local authorities will now also be able to grant pavement licences for a length of their choosing up to a maximum of two years. As set out in the updated guidance, we encourage local authorities to grant businesses the maximum two years unless there is a good reason to do otherwise.

The 7-day consultation and 7-day determination periods provided under the temporary regime, will be extended to 14 days for each. This change has been made to reflect asks from local authorities to have a reasonable time to process applications; while balancing

businesses' need for a quick determination; and the need of members of local communities, particularly those with disabilities, to have a sufficient time to input, in mind.

Finally, the new pavement licensing provisions under the LURA 2023 grants local authorities' new enforcement powers. From the commencement date, local authorities will now, with the consent of the licence-holder, be able to amend the licence in certain circumstances. Local authorities will also be able to give notice to businesses who have placed furniture on the relevant highway without the required licence. If furniture continues to be placed on the highway, in contravention of the notice, the authority may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture, and refuse to return the furniture until those costs have been paid. If within three months of the notice being served, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

Additional smaller changes in the guidance

Along with the amendments to the pavement licensing regime under the LURA 2023, we have made several minor changes to the guidance to clarify certain points within it and make it more comprehensive and considerate of the various groups affected by the regime.

We have clarified section 4.1 of the guidance, which sets out what local authorities, when considering the needs of disabled people, should assess when they set conditions, determine applications, and consider whether enforcement action is required. The previous guidance interpretation [Inclusive Mobility](#) was misleading. New guidance makes clear that under normal circumstances a width of 2000mm is the minimum that should be provided. In cases where this is not possible, a width of 1500mm could be regarded as the minimum acceptable distance. Though, local authorities should take a proportionate approach when measuring this.

In addition to this change we have also flagged that when considering the no obstruction condition licencing offices should be mindful of the cumulative impact of multiple pavement licences and the potential impact this could have on disabled pavement users.

Following feedback, we have provided more clarity on which types of furniture are permissible under this pavement licensing regime. Licences granted under this provision are exclusively for the use of furniture pertaining to the consumption of food and drinks, for example, tables and chairs. Other furniture, such as advertising boards, are not included. This furniture must be removeable.

Transitional Arrangements

The new pavement licensing provisions came into effect on 31 March 2024. Along with the renewals process introduced under the new regime, there are transitional arrangements in place to ensure the transition from the temporary regime to the permanent one is a smooth one for the entire sector.

Existing licence-holders can retain their licences granted under the temporary regime until the expiration date on their licence. After these existing licences expire, on or after 31 March 2024, businesses can reapply under the renewals process and be charged up to the

maximum renewal fee of £350, subject to the local authority deciding the level of fee up to the cap.

Existing licences with no fixed end date will be extended for two years from the commencement date and licences that were deemed to be granted due to the local authority not being able to determine the application on time, will also be extended for two years from the commencement date.

Applications submitted to the local authority on or before 30 March 2024 but determined on or after 31 March 2024 will be subject to some of the arrangements of the temporary regime, namely the 7-day consultation and 7-day determination periods and the up to £100 application fee. However, they will benefit from the new maximum duration of up to two years.

Applications determined before 31 March 2024, will be subject to the new enforcement power under the permanent regime, which grants authorities the power to amend the licence in certain circumstances with the licence-holder's consent.

You can access the updated guidance, which outlines the changes and transitional arrangements, [here](#).

For any queries, do reach out to pavementlicensing@levellingup.gov.uk.

We hope that these amendments are welcomed, and we look forward to continuing to work together to make this process as practical as possible.

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National Conditions

The no-obstruction condition is a condition that the licence must not have the effects set out in section 3(6) of the 2020 Act.

3(6) The effects referred to in subsection (5) are—

(a) preventing traffic, other than vehicular traffic, from—

(i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

(ii) passing along the relevant highway, or

(iii) having normal access to premises adjoining the relevant highway,

(b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,

(c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

(d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

The national smoke-free seating condition seeks to ensure customers have greater choice, so that both smokers and non-smokers are able to sit outside.

It is important that businesses can cater to their customers' preferences. The Business and Planning Act 2020 imposes a smoke-free seating condition in relation to licences where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway. The condition requires a licence-holder to make reasonable provision for seating where smoking is not permitted. This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (Signs) Regulations 2012.
- No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
- Licence holders should provide a minimum 2m distance between non-smoking and smoking areas, wherever possible.

Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

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Appendix B2

Local conditions for a pavement licence

You are required to follow the conditions below when holding a pavement licence in Welwyn Hatfield.

1. A summary of this licence, as provided by the licensing authority, must be displayed on the premises where it can be seen from outside of the premises at all times that the premises are open to the public. Should the licence summary be lost or damaged, a replacement licence summary must be requested from the council as soon as possible.
2. This licence permits the holder to use the licensed area, as defined on the licence plan delineated in red attached to the licence summary, only for the purposes and times described on the licence by customers who have purchased food and drink from the licensed establishment.
3. This permission shall expire on the date specified on the licence.
4. The licence holder shall not place on the highway any furniture or equipment other than as specified in this licence and shall maintain the same in a neat tidy and safe condition and shall not place them so as to obstruct the access to or exit from any premises.
5. All furniture shall be removed from the highway within 30 minutes of the end of the licensed hours, and shall not be placed on the highway until a maximum of 30 minutes before permitted hours start.
6. All furniture shall be removed from the licensed area whenever the premises are not open to the public.
7. All furniture must be stored on private property and cannot be kept on the Highway when not in use.
8. The licence holder shall leave the highway clear and unobstructed after removing all furniture from the highway at the end of permitted hours.
9. The licence holder shall not cause any unnecessary obstruction of the highway or danger to persons using it.
10. Access to neighbouring premises and the proximity of their customers must also be considered.
11. Use of the space authorised by the pavement licence must not cause nuisance to neighbouring occupiers.
12. The licence holder shall not permit persons using the outside furniture to cause a public nuisance or anti-social behaviour. Where the licence holder employs any

person to ensure the safety and security of the premises and its customers, such persons must be licensed by the Security Industry Authority.

14. The Licence holder shall not make any excavations or indentations of any description whatsoever in the surface of the highway or place or fix equipment of any description in the surface of the highway. Neither may you attach anything to street furniture in particular lighting columns.

15. The Licence holder shall maintain the permitted area and the immediately adjacent area in a clean and tidy condition during the permitted hours and shall provide litter bins or similar receptacles for the disposal of rubbish.

16. Refuse and litter from the tables or deposited on the highway in the vicinity of the chairs and tables must be collected regularly and not be allowed to blow across to neighbouring premises or onto the Highway.

17. Litter is not to be placed in the litter bins situated on the highway for use by the general public, but in the trade refuse bins. Ashtrays must be provided where applicable.

18. All tables must be cleared as soon as practicable after being vacated by customers.

19. No paper cups, disposable sachets or containers shall be provided within the licensed area.

20. All menus shall be enclosed in laminated weighted holders or the use of QR codes should be employed.

21. If paper serviettes are to be provided they must be enclosed within a dispenser and be specifically identifiable to the Premises.

22. No leaflets or other forms of advertisement or other printed material shall be left or distributed within the licensed area.

23. Any use of glass for the consumption of food or drink in the area covered by the permission must be made of toughened glass or of plastic.

24. Glasses must be regularly collected and any broken glass cleared immediately.

25. Any heaters must be to BS Standards (BS EN 60529:1992 (Electric heaters) and BS EN 14543:2005 (Gas heaters))

26. Access to the controls/ pipe/ cylinder on the heaters must be restricted to authorised employees of the premises only

27. The licence holder shall provide suitable barriers around the licensed area but only such as shall have been firstly approved by the council.

28. If additional heaters and umbrellas are to be added after permission has been given, written approval from the Council is required.

29. Any umbrellas provided must not protrude beyond the designated boundary of the licensed area. They shall be kept in good condition so as not to detract from the appearance of the street. You are advised that enclosed structures (including gazebos) and the like will not be permitted within the proposed boundary of the licensed area.

30. The licence holder shall not use or permit any playing of music, reproduction or sound amplification apparatus or any musical instruments radio or television receiving sets in the area covered by this licence and must not provide such for persons within the licensed area from outside the licensed area.

31. The placing of speakers or any other equipment for the amplification of music within the licensed area is strictly prohibited unless authorised by a premises licence issued under the Licensing Act 2003. Any such authorised music must not cause a nuisance or annoyance to others.

32. The number and type of public sanitary accommodation provided by a business is based on the number of potential customers. The applicant should ensure that the sanitary provision remains appropriate for the increase in customer numbers resulting from additional seating if necessary.

33. No outdoor food preparation will be permitted under the terms of this licence.

34. Any sales of alcohol within the licensed area must be authorised by a premises licence issued under the Licensing Act 2003.

35. Any material alteration to the Means of Escape, which affects people using the Means of Escape, inside or in the immediate vicinity outside the premises must be recorded in the premises' Fire Risk Assessment as a significant finding. Control measures should be put in place to reduce risk within the area as well as recording them. A review of the hazards and risks should be ongoing throughout the period the premises are in use.

36. The license is issued to the applicant only and is not transferable.

37. Nothing herein contained shall be construed as the grant or purported grant by the council or any tenancy protected by the Landlord and Tenant Act 1954 or any statutory modification or re-enactment thereof for the time being in force save as for those set out in the Business and Planning Act 2020 or other relevant legislation.

38. If so requested in an emergency by an authorised officer of the council, Police officer, Fire Brigade officer, paramedic, statutory undertaker, or communications network operator, the licence holder shall immediately remove the furniture permitted under this licence from the highway.

39. There may be the occasion when there are planned works on the Highway and the licence may need to be temporarily suspended.

40. The council may remove and store or dispose of (a) any structures placed by the licence holder on the highway but not authorised by this Licence, and (b) any structures authorised by this licence but placed by the Licence holder on the highway outside the permitted hours or outside the permitted area and the Council shall not be responsible to the Licensee for the safe-keeping thereof.

41. The licence holder shall comply with the "no-obstruction condition" set out in section 5(5) of the Business and Planning Act 2020 and all conditions made under section 5(6) of the Business and Planning Act 2020. The licence holder shall comply with the 'smoke free seating' condition set out in section 5(6) of the Business and Planning Act 2020.

42. The licensee shall indemnify and keep indemnified the Council against all actions proceeding claims demand and liability in respect of personal injury, damage to goods or property, or any loss arising out of the grant of this licence and the licensee's use of the land and for this purpose must take out at the licensee's expense a policy of insurance approved by the council in the sum of at least £5 million in respect of any one event.

43. These conditions may be varied where appropriate to reflect any changes in local circumstances.

Pavement Licence Policy July 2024

1. General

This policy sets out Welwyn Hatfield Council's approach to considering applications for pavement licences under The Levelling Up and Regeneration Act 2023 which makes permanent the provisions set out in the Business & Planning Act 2020.

All references to pavement licences or licences hereafter shall refer to licences granted under this policy.

The Licensing Team Leader has delegated authority to determine applications for pavement licences and revocations in line with this policy.

2. Departure from Policy

All policies are the starting point for decisions. However, all decisions are taken on the merit of the individual case and where an applicant wishes to apply for a licence outside of the requirements contained within this policy, full and unfettered consideration will be given to that application. However, applicants should be aware that departures from policy will usually be restricted to exceptional circumstances, and where the council assess that to grant a licence outside of the policy will not result in an unnecessary obstruction of the highway and that the recommended pavement widths, as set out in section 3 (2) of the 'inclusive mobility guidance'.¹

Where it is necessary for the council to depart from this Policy, clear and compelling reasons for doing so must be given. The Head of Service may authorise a departure from the Policy in accordance with this section if they consider it appropriate in the specific circumstances.

3. Application Process

It is only possible under the legislation to grant pavement licences to a business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises). Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets, or entertainment venues which sell food and drink.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

Businesses that do not use their premises for the sale of food or drink, for example salons, are ineligible. Though they can apply for permission to place furniture on the pavement under the Highways Act 1980.

The legislation defines 'furniture' as being:

- (a) counters or stalls for selling or serving food or drink,
- (b) tables, counters or shelves on which food or drink can be placed,
- (c) chairs, benches or other forms of seating, and

¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/3695/inclusive-mobility.pdf

- (d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink;

This furniture is required to be removable and related to the serving, sale and consumption of food or drink. When determining what is 'removable' we would expect the structure not to be permanently fixed, and able to be moved easily, and stored away at night.

4. Furniture not permitted

Furniture that is not removable and used in connection with the outdoor selling or consumption of food or drink are not permitted by a pavement licence.

Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

Applicants that wish to place non-removable furniture onto the highway must apply for permission under the Highways Act 1980.

5. Exclusions

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footways restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

A pavement licence does not grant the right to permanently close a road. To do so, a pedestrian planning order made under section 249(2) or 249(2A) of the Town and Country Planning Act 1990, extinguishing the right to use vehicles on the highway, is required.

6. What information does an applicant need to provide

All applications must be made in writing. We have designed an application form for applicants to complete and submit. Applications can be submitted electronically, and a register of all applications will be available on our website www.welhat.gov.uk. The local authority will need to consider a number of factors, when determining whether to approve the application. These include whether additional conditions might be needed to make it possible to approve an application which would otherwise be unacceptable.

An application must:

specify the premises and, the part of the relevant highway to which the application relates;

- specify the purpose (or purposes) for which the furniture will be used which must be for use by the licence-holder to sell or serve food or drink, and/or for use by other people for the consumption of food or drink. In both cases the food or drink must be supplied from, or in connection with relevant use of the premises;
- specify the days of the week on which and the hours between which it is proposed to have furniture on the highway;
- describe the type of furniture to which the application relates, for example: tables, chairs, and/or stalls;
- specify the date on which the application is made;
- contain or be accompanied by such evidence of public liability insurance in respect of anything to be done pursuant to the licence to the sum of at least £5 million; and
- contain other information on how national and local conditions have been satisfied.
- a scale plan showing the location of the premises shown by a red line, so the application site can be clearly identified on an OS Base Map;
- a scale plan clearly showing the proposed area to be covered by the pavement licence in relation to the highway, with measurements clearly showing the location of all items to be placed in the licensed area;
- the proposed duration of the licence (normally 2 years unless there are good reasons for granting a licence for a shorter period.);
- evidence of the right to occupy the premises e.g. the lease;
- contact details of the applicant;
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- evidence that the applicant has met the requirement to give notice of the application (for example a photograph of your completed public notice);
- (if applicable) reference of existing pavement licence currently under consideration by the local authority
- any other evidence that shows how the furniture to be introduced is in accordance with national guidance regarding accessibility (such as use of good colour contrast, suitable physical barriers around chairs and tables and or other appropriate measures); and
- any other evidence needed to demonstrate how any local and national conditions will be satisfied, including the 'no-obstruction' national condition.

If an application is refused the applicant is not entitled to a refund.

Applicants may only submit one application at a time for processing for each premises.

Applicants are required to display a notice on their premises which is easily visible and legible advertising their application. The notice should be put on display on the day that an application is submitted and must be kept on display for 14 consecutive calendar days. When counting 'days' public holidays are not included.. We have designed a specimen public notice for applicants to use and this is available from our website: [pavement-licence-site-notice-template \(welhat.gov.uk\)](http://pavement-licence-site-notice-template(welhat.gov.uk))

Such a notice must be read easily by, members of the public from outside of the premises. The notice must be visible at all times e.g. not obstructed or hidden by shutters at the premises, not obstructed by advertisements or other external displays at the premises. If the notice is damaged, or misplaced, then the notice (or a fresh copy) must be put back on display at the earliest convenience. If officers determine that the application has not been advertised in a satisfactory manner, they may require the notice to be put on display for a further period of 14 consecutive days.

In addition to the notice at the premises we are required to place a similar notice on Welwyn Hatfield BC website, we will include the plans supplied with the application to allow interested parties to fully understand what the application is seeking to permit. Information on pavement licence applications in consultation can be found here: Pavement Licence Register.xlsx | Powered by Box

7. Consultation

The consultation is a public consultation, and any person may submit representations during the consultation period.

Applicants are encouraged to engage with any services operated in the vicinity for vulnerable customers, for example, care home or disability organisations nearby where individuals may be at particular risk.

The council will directly consult the following parties on applications made under this policy:

- Hertfordshire County Council (as highways authority) [statutory]
- Hertfordshire Constabulary (for security purposes)
- Welwyn Hatfield Council Environmental Health
- Welwyn Hatfield Council planning
- Welwyn Hatfield Council environmental services
- Welwyn Hatfield Council estates/ market team
- Welwyn Hatfield Council emergency planning
- Ward Members
- Fire
- Groups that represent businesses such as the BID

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/3695/inclusive-mobility.pdf

Any person wishing to submit representations against an application must do so in writing (or email) during the statutory consultation period. The representation must be signed.

8. Determining applications

Once the information is submitted to the local authority, the authority has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 calendar days for public consultation, and then 14 calendar days to consider and determine the application after the consultation.

The council must determine the application with 14 calendar days of the consultation period ending.

If the local authority does not determine the application within the 14-day determination period, the application will be deemed to have been granted subject to any local conditions published by the local authority before the application was submitted.

If the local authority determines the application before the end of the determination period, the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

The matters that will be considered when determining an application include:

- public health and safety including security – for example, any reasonable crowd management measures needed as a result of a licence being granted;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour, and litter;
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings, and its users, taking account of:
- considerations under the no-obstruction condition including the cumulative impact of multiple pavement licences in close proximity, in particular considering the needs of disabled people
- any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;

- whether there is permanent street furniture or fixed structures in place on the footway that already reduce access; and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.
- Recommended minimum footway widths.

The council shall grant a licence only where it considers that to do so would not pose or exacerbate one or more of the following risks detailed in the B&PA 2020 section 3(8)

- unnecessary obstruction of the highway
- unnecessary obstruction of the premises or neighbouring premises
- preventing statutory undertakers or communicate network operators (or their contractors) from having access to appropriate plant or equipment either in, on, or over the highway.

A minimum unobstructed width of 2 metres of the highway, measured from the boundary line of the proposed pavement licence area to the nearest kerb or item of street furniture (e.g. electrical cabinets, trees, cycle racks, bus stops, etc.), must be available before a pavement licence can be granted. This is to ensure the free movement and access by pedestrians and prevent obstruction. Additional widths may be required in certain locations or as a result of responses from consultees. In making any decisions, the council will take into consideration the recommended highway widths as detailed in 'Inclusive Mobility'¹, particularly section 3.

Applications will not be granted if pedestrians are forced or encouraged to cross a footway in a dangerous manner or if the proposed facility poses a risk to disabled people on the highway through the use of the proposed pavement licence. The council would consider that if the effect of any pavement licence results in highway users being put in unsafe situations, then the use of the highway results in an unacceptable and unnecessary obstruction of the highway.

All licences will be granted subject to the council's standard pavement licence conditions, which are attached to this policy.

The legislation allows the council to attach such bespoke conditions to licences as they consider reasonable to address or mitigate any concerns raised in representations against the application. Such conditions may include, but are not limited to, granting the licence for a reduced area, for reduced hours, for a reduced number of tables and chairs, or for a limited duration.

All licences will be granted subject to any conditions authorised and published by the Secretary of State under Part 1, Section 5, para 6, of the Act. It is acknowledged that where any such conditions published by the Secretary of State conflict with one or more conditions attached by the council, regardless of whether these are standard conditions or bespoke conditions, the local conditions applied by the council shall take precedence.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/3695/inclusive-mobility.pdf

9. Right of appeal

There is no statutory route of appeal. If your application is refused you will be advised of the grounds for this refusal giving you the opportunity to address them and submit a revised application. We advise applicants to engage with the consultees and neighbours, whether these are residents or other businesses, at an early stage. These conversations should help you to avoid objections.

10. Renewal & Variation

To obtain a licence for any period after 31 March 2024, a new application will need to be made even if the premises already had a licence until 31 March 2024.

An application will need to have been made after the commencement date for it to be treated as a renewal. Applicants can re-use application material from their original application, updating where relevant to ensure they still comply with local and national conditions.

Businesses who have had a licence under the previous regime and are seeking a new licence should be treated as a renewal application if it is made by the licence-holder, it is in respect of the same premises and it is on the same terms as the expired licence.

Otherwise, the normal application process shall apply in full, including submitting an application form, the required accompanying documents and payment of the application fee.

Any application to renew a licence must be submitted before the current licence expires and one month in advance to give the 28 day consultation and determining period.. If a licence expires, the premises will be required to apply for, and obtain, a new licence before being able to resume placing tables and chairs outside of the premises.

Any premises wishing to vary the terms of their existing pavement licence will be required to apply for a new licence and the full application process will apply.

11. Enforcement

If the council considers that a licence holder has breached any condition or term of the licence, the council will:

- (1) on the first breach of a licence condition/term issue a warning notice clearly explaining the steps that must be taken to remedy the breach and the time scale for compliance. Failure to comply with the warning notice will lead to the licence being revoked;
- (2) on the second breach of a licence condition/term within eight weeks of a previous warning notice issue a second warning notice clearly explaining the

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steps that must be taken to remedy the breach and the time scale for compliance. Failure to comply with the second warning notice will lead to the licence being revoked. This will be the final warning notice that will be issued in relation to that licence;

- (3) on a third breach of condition during the life of the licence the licence will be revoked.

Where a notice is served, if the licence holder fails to comply with the notice, the council may take steps itself to remedy the issue and may seek to recover the costs of doing so from the licence holder. The council can also amend the licence with the consent of the licence holder. Alternatively, the council may simply follow the process above resulting in revocation.

Once a licence has been revoked, any re-application will only be considered if the premises has changed ownership or management, or a period of 3 months has elapsed from the date of revocation.

The council may revoke a licence or amend it with the consent of the licence holder in the following circumstances.

1. If it considers that the highway is no longer suitable for the use as granted by or deemed to be granted by the licence. For example, the licenced area (or road adjacent) is no longer to be pedestrianised.

2. Or if there is evidence that:

- there are risks to public health or safety – for example where it comes to light that there are significant security risks which have not been sufficiently considered, or addressed in a proportionate fashion (this should be reassessed as necessary, particularly in the event of changes to the terrorism threat level);
- this use of the highway is causing an unacceptable obstruction, breaching the no-obstruction condition – for example, the arrangement of street furniture prevents disabled people, older people or wheelchair users to pass along the highway or have normal access to the premises alongside the highway; or
- the use is causing, or risks causing, anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up.

The local authority may revoke a licence in the following circumstances:

1. For a breach of condition, (whether a remediation notice has been issued or not) or

2. It comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or

3. The applicant did not comply with the requirement to affix the notice to notify the public of the application or secure that the notice remains in place until the end of the public consultation period.

Licence holders will be informed of the reasons for any revocation.

When considering if the operation of the licence is a risk to public health, public safety or if the operation is obstructing the highway, the council will take into account the matters listed under the 'Determining applications' section above.

Any action taken under this section, including the service of warning notices shall be taken in accordance with the council's Enforcement Policy.

Any licence that is being considered for revocation shall be referred to Licensing Team Leader for determination.

12. Miscellaneous

There is no provision to transfer a pavement licence granted under this policy. Should the premises be taken over by a new operator, that operator must apply for, and obtain, a new pavement licence. No tables and chairs or other such furniture may be placed outside of the relevant premises until a pavement licence has been granted or deemed to have been granted.

A pavement licence may be surrendered by the licence holder at any time. Notice of surrender must be provided to the council in writing. Email confirmation of surrender is acceptable.

The fee paid upon submitting an application is an application fee. If the licence is refused, or the application is withdrawn before a decision is made, the applicant is not entitled to a refund of the fee. If a licence holder stops trading or surrenders a licence they are not entitled to any refund.

Furniture must be capable of being removed from the highway once the terminal hour of the licence has been reached. The legislation does not allow permission to be granted for any furniture that is fixed to the highway.

Any damage to the highway by licence holders must be repaired by the licence holder at their own expense.

Licence holders are reminded that any outside areas must be taken into account when setting their maximum permitted capacity under their fire risk assessment, or under any risk assessments concerning infection control.

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Welwyn Hatfield Borough Council

Equality Impact Assessment

Assessment completed by: Sue McDaid

Name of policy/project/service to be assessed	Pavement Licences
At what stage of consultation has this EqIA been prepared?	Pre consultation <input type="checkbox"/> Post consultation <input type="checkbox"/> No consultation required <input checked="" type="checkbox"/>
Method of analysis undertaken and dates	Managers – desktop screening <input checked="" type="checkbox"/> Date: July 2023 Employee Forum <input type="checkbox"/> Date: Stakeholder review <input type="checkbox"/> Date:
Who does the policy or service affect?	Customers (public) <input checked="" type="checkbox"/> Internal (staff/Members) <input type="checkbox"/> External (partners/contractors/agencies) <input type="checkbox"/> Other <input type="checkbox"/>
What are the aims/objectives/purpose or outcome or intended effects of the policy, project or service?	<ul style="list-style-type: none"> • To set new policy for the application of the pavement licensing regime • To set out new licence fees
What equality data is available relating to the use or implementation of the policy, project or service?	None
What consultation has taken place in the development or review of the policy, project or service?	None required

Does the policy have a positive or negative impact on any of the following Protected Characteristic groups covered by the Equality Act 2010?

	Positive Yes/No	Negative Yes/No	Neutral Yes/No	Evidence & Comments
Age	Y			One of the national mandatory licence conditions requires that there should be no obstruction of the pavement by tables and chairs. The purpose of this is to ensure that persons using mobility scooters, wheelchairs and persons using prams are not impeded in the use of the pavement. Therefore, this policy is likely to positively impact younger persons and perhaps older persons who are more likely to use mobility devices.
Disability	Y			One of the national mandatory licence conditions requires that there should be no obstruction of the pavement by tables and chairs. The purpose of this is to ensure that persons with disability (eg sight impairment, mobility scooters) are not impeded in their use of the pavement. Therefore, this policy is likely to positively impact persons with disability.
Ethnicity			Y	This policy and regime will have neither a positive or negative impact on ethnicity.
Gender re-assignment			Y	This policy and regime will have neither a positive or negative impact on gender reassignment.
Marriage/Civil partnership			Y	This policy and regime will have neither a positive or negative impact on partnership.
Pregnancy & Maternity	Y			One of the national mandatory licence conditions requires that there should be no obstruction of the pavement by tables and chairs. The purpose of this is to ensure that persons using items like prams are not impeded in the use of

				the pavement. Therefore, this policy is likely to positively impact women with babies.
--	--	--	--	--

	Positive Yes/No	Negative Yes/No	Neutral Yes/No	Evidence & Comments
Religion or belief			Y	This policy and regime will have neither a positive or negative impact on this characteristic.
Sex			Y	This policy and regime will have neither a positive or negative impact on this characteristic.
Sexual orientation			Y	This policy and regime will have neither a positive or negative impact on this characteristic.

Equality Impact Assessment Outcome:

- Low risk
- Medium risk
- High risk

Any other comments:

For Steering Group use only:

Comments:

Agenda Item 6

Part I

Main author: Kate Payne

Executive Member: Cllr Kieran Thorpe

All Wards

WELWYN HATFIELD BOROUGH COUNCIL
LICENSING COMMITTEE – 22 AUGUST 2024
REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE
CHANGE)

LICENSING ACT POLICY REVIEW

1 Executive Summary

- 1.1 This report informs Members that the review of our Licensing policy under the Licensing Act 2003 has completed the consultation period and the responses are at Appendix 2. This report asks members to consider and agree proposed changes following the consultation and recommend the policy for onward approval by Full Council.

2 Recommendation(s)

- 2.1 For Members to note the results of the consultation and agree changes proposed to the revised policy at Appendix 1.
- 2.2 For members to agree for onward approval by Cabinet and Full Council.

3 Explanation

- 3.1 The council in its capacity as licensing authority for the purposes of the Licensing Act 2003 is obliged by law to have a statement of licensing policy. Originally such a statement had to be reviewed every 3 years, but along with a number of other changes to the Licensing Act 2003 and the statutory guidance this frequency has been increased to 5 years.
- 3.1 During the five year period the policy must be kept under review and the licensing authority may make such revisions to it as it considers appropriate, for instance when changes have been made by Government or in the light of feedback from the local community on whether the statutory licensing objectives are being met.
- 3.2 The statement of licensing policy under the Licensing Act 2003 should also be developed according to the licensing act guidance issued by the Home Office which was last updated in December 2023. The Licensing policy has been amended to reflect the relevant areas which had been addressed or clarified in the new Guidance.
- 3.3 The policy has been updated and new sections introduced where appropriate to reflect the current guidance and this revised policy represents an update to previous policies and reflects the current situation and practice in Welwyn Hatfield.
- 3.4 The consultation has taken place and there were four responses received, only two of which made comments regarding changes to the policy. The table at Appendix 2 shows the responses received and the suggested changes

proposed. The first was from Welwyn Parish Council and the changes suggested are highlighted in yellow. The second column has some explanatory information and any proposed changes for discussion highlighted in green. The second from North Mymms Parish Council related to the TENS process and to the consultation process for applications. These are both statutory processes set out in the Act so we cannot deviate from these in our policy. Those changes agreed by members will be made to the revised policy.

Implications

4 Legal Implication(s)

4.1 The Council, as a Licensing Authority, has a duty under Section 4 of the Licensing Act 2003 to carry out its licensing functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance and
- d) the protection of children from harm

4.2 The Council, as a Licensing Authority, also has a duty under Section 5 of the Licensing Act 2003 to determine its policy in relation to the exercise of its licensing functions (known as a Statement of Licensing Policy) in respect of every five year period, and review and publish the policy before the beginning of the next five year period.

4.3 Under Section 4 of the Licensing Act 2003, the Council as a Licensing Authority carrying out its licensing functions, must also have regard to its statement of licensing Policy and any guidance issued by the Secretary of State under section 182 of the Act.

4.4 Before the Council approves its policy for a five year period, the licensing authority must consult:

- a) the chief officer of police for the licensing authority's area
- b) fire and rescue authority for that area,
- c) the Local Health Board for an area any part of which is in the licensing authority's area
- d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area
- e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority
- f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority
- g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

5 Financial Implication(s)

5.1 Preparation and consultation on the Statement of Licensing Policy, and administration of the Licensing functions, are met from within the existing budget

and staff resources in the Licensing Team. The purpose of the licensing fees charged for applications under the Act are to cover the costs of the Licensing functions.

6 Risk Management Implications

- 6.1 The council is at risk of legal challenge if it does not have a statement of licensing policy in place, has failed to review or consult on its licensing policy, or if its policy does not take account of the Secretary of State's guidance issued under the Licensing Act. The approval of and adherence to the Statement of Licensing Policy (Appendix 1) on how licensing functions are exercised will help mitigate this risk.

7 Security and Terrorism Implication(s)

- 7.1 The Council has an overarching duty to have due regard to the need to prevent people being drawn into terrorism and to consider security and measures to counteract terrorism in public places.
- 7.2 The guidance issued under section 182 of the Act provides advice and information about counter terrorism in section 2 and the annex.

8 Procurement Implication(s)

- 8.1 None arising directly from this report.

9 Climate Change Implication(s)

- 9.1 The proposal appears to result in no increase in the use of water or other materials. All documentation and agreements are sent electronically unless specifically requested.

13 Link to Corporate Priorities

- 13.1 The subject of this report is linked to the Council's Corporate Priority "enable an economy that delivers for everyone" as it supports trade through the issuing of licenses, certificates and temporary event notices. It is also linked to the Council's Corporate Priority 'Together, create opportunities for our communities' - to help us feel safer where we live.

14 Equality and Diversity

- 14.1 An Equality Impact Assessment (EIA) has been previously been completed and no negative impact was identified on any of the protected groups under Equalities legislation.

Name of author *Kate Payne 01707 357206*
Title *Licensing Team Leader*
Date *17th June 2024*

Background papers to be listed

Revised guidance issued under section 182 of the Licensing Act 2003

Appendices to be listed

Appendix 1 Draft licensing policy 2025-2030

Appendix 2 Consultation comments and responses table

Appendix 3 Survey and written responses



Welwyn Hatfield Borough Council

Licensing Act 2003

Statement of Licensing Policy
2025-2030

As required by section 5 of the Licensing Act 2003

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Executive summary

This Licensing Policy Statement (“The Policy”) has been produced in accordance with the Licensing Act 2003 (“The Act”) and has been drafted with regard (as required by Section 4 of the Licensing Act 2003) to the Home Office Guidance (“the Guidance”) last updated in December 2023

Its purpose is to set out the policies of Welwyn Hatfield Borough Council (“The Council”) when carrying out its functions and responsibilities as the licensing authority under the Act.

We have not departed from the Guidance under the Licensing Act. However should we need to in future then the reasons would be set out within this policy.

We are reviewing the policy for the next five year period to reflect the changes that have been introduced to the section 182 guidance last published in December 2023 .

The revisions to the current Policy are summarised below:

- Entitlement to work in the UK for personal licence holders. Criminal record checks and means of checking the right to work via a weblink.
- Persons operating an alcohol delivery service should check with the Licensing Authority that this form of alcohol sale is permitted..
- New paragraphs 4.82-4.84 clarifying the circumstances when a closure notice may be served and when an application can be made to court to close the premises..
- Clarification that Home Office Immigration Enforcement is not a responsible authority in relation to Club Premises Certificates.
- Increase in the limits for Temporary Event Notices (TENS)
- Clarification that there is no right of appeal if a late TEN receives an objection from the police or Environmental Health.
- Full variations should not be used to vary substantially the premises to which a licence relates. A new application should be submitted instead.
- Clarification that conditions should be interpreted in accordance with the applicant’s intentions and be proportionate and appropriate.
- Addition of paragraph 14.66 to bring licensing more in line with planning and refers to the agent of change.
- Removal of Annexe A- documents demonstrating the entitlement to work have been replaced with embedded web links.

From time to time, the Home Office may issue additional supporting guidance to licensing authorities and other persons on the GOV.UK website. This supporting guidance is good practice guidance and should be viewed as indicative and subject to change. Such supporting guidance will broadly reflect but will not be part of the statutory guidance issued by the Secretary of State under section 182 of the 2003 Act. Licensing authorities may wish to refer to, but are under no statutory duty to have regard to such supporting guidance issued by the Home Office.

The licensing policy must be formally reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy must be subject to the

consultation process. In addition section 5(4) of the Act provides that the licensing authority must keep its policy under review during each five year period and make appropriate revisions. Again, any revisions must be subject to consultation.

Welwyn Hatfield Borough Council does not have any special policies at this time. Where a special policy relating to cumulative impact , early morning restriction orders or late night levy has been adopted this should be reviewed regularly, and again at least every five years, to assess whether it is needed any longer, or indeed needs expanding (see paragraphs 14.20-14.48 of the s182 Guidance). It is also important to review any cumulative impact policy to ensure that it has had the intended effect. We have set out a definition page to explain the terminology we use in this document and this can be found on Page 55 of this policy.

Accordingly this revised policy represents an update to previous policy and reflects the current situation and practice in Welwyn Hatfield.

The policy is in force from 20th January 2025 to 20th January 2030 unless revised beforehand. We hope that organisations and individuals will use it before making licence applications, and that residents and statutory bodies will use it when responding to licensing applications or existing licensed activities.

In drawing up the policy we have consulted with stakeholders listed in paragraph 4.4. The public consultation feedback is provided in Appendix X.

Our consultation was conducted between 11th March 2024 and 9th June 2024

We placed details on our website and a public advertisement on the Council's notice board.

It was approved by full Council – the Licensing Authority n

1. Welwyn Hatfield Borough Council

1.1 The borough of Welwyn Hatfield is located in the centre of Hertfordshire with the very south of the borough bordering the London Borough of Enfield and Central London only around 15 miles south of the borough boundary. The borough is also bordered by Hertsmere to the South, St Albans to the West, North Hertfordshire to the North and East Hertfordshire and Broxbourne to the East. It contains the two towns of Welwyn Garden City and Hatfield and a number of large and small villages providing a mix of urban, suburban and rural areas, with each town and village having its own identity and character. The borough also contains large areas of open countryside and around 79% of the borough is designated as Metropolitan Green Belt. The towns are the main sources of housing, shopping, leisure and employment in the borough.

1.2 Despite being relatively self-contained, the borough's proximity to London and the good transport network in and around Welwyn Hatfield mean that it has strong links to London and also links to Stevenage to the north and St Albans to the west in terms of commuting patterns and housing markets.

1.3 Between the last two censuses (held in 2011 and 2021), the population of Welwyn Hatfield increased by 8.4%, from around 110,500 in 2011 to around 119,800 in 2021.

es (held in 2011 and 2021), the population of Welwyn Hatfield increased by 8.4%, from around 110,500 in 2011 to around 119,800 in 2021.

The population here increased at a similar rate to the overall population of the East of England (8.3%), but by a greater percentage than the overall population of England (up 6.6% since the 2011 Census).

1.4 Development of Welwyn Garden City began in the 1920s and it was built according to the vision of Sir Ebenezer Howard, founder of the Garden City movement. Howard planned 'a town designed for healthy living' where people could live, work and raise their families away from the miseries of polluted cities. The residential and commercial areas were laid out along tree-lined boulevards with a neo-Georgian town centre. 1.5 The area now known as Old Hatfield grew up around the gates of Hatfield House and still retains many historic buildings, notably the Old Palace, St Etheldreda's Church and Hatfield House. This part of Hatfield is now within the Old Hatfield Conservation Area.

1.6 There is a significant student population at the University of Hertfordshire in Hatfield in the College Lane and De Havilland Campuses and at two other college campuses at Oakland's College in WGC and the Royal Veterinary College at Potters Bar.

1.7 Welwyn Hatfield has a unique built environment and heritage which shapes the local landscape and is an important part of the borough's identity. It includes a garden city, 8 conservation areas, 423 listed

buildings, 73 areas of archaeological significance and 4 registered historic parks and gardens.

- 1.8 The health of the local population is generally very good with life expectancy recorded above the national average for males and females and there are currently no health indicators in which the borough is significantly worse than the national average.
- 1.9 The Council licences premises for the sale and supply of alcohol, regulated entertainment and late night refreshment. There are a variety of different types of premises holding these licences, including village halls, clubs, hotels, shopping centres, public houses, nightclubs and open spaces.
- 1.10 Potential operators should refer to the Local Plan and associated policies (through our development control team or on our website at <https://www.welhat.gov.uk/planning-building> for details about the local planning authority's approach to granting planning permission for developments where such activities may take place.

2. Purpose and scope of this policy

- 2.1 Welwyn Hatfield Borough Council (The Council) is the Licensing Authority under the Licensing Act 2003 (The Act) and is responsible for the administration and enforcement of the regulatory licensing regime governing the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations.
- 2.2 The Licensing Act 2003 imposes a statutory duty upon borough councils to produce, develop and keep under review a licensing policy. Our Licensing Policy Statement first came into effect on 7th February 2005. The Policy was last revised in 2020 and should be revised every five years.
- 2.3 The aim of the policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural environment. We recognise both the needs of residents for a safe and healthy environment to live and work and the importance of well-run entertainment premises to the local economy and vibrancy of the borough. In addition commercial occupiers have an expectation of an environment that is attractive and sustainable for their businesses.
- 2.4 We are committed to partnership working with the police, fire service, local businesses, licensing trade, health boards, residents and others to achieve this aim.
- 2.5 A corporate enforcement policy is in place which makes provision for shared enforcement with Hertfordshire Constabulary, Trading

Standards and the Fire Authority.

- 2.6 The Council recognises the advantages of a multi-agency safety advisory team (SAT) and participates in the team that operates in the Borough. The aim of the SAT is; to obtain and share information in order to inform member agencies about events that are taking place in order to assist in multi-agency contingency planning. The objectives are;-
- to provide a local multi-agency single point of contact for event organisers to share information regarding events.
 - to provide a mechanism to receive, share and disseminate information and intelligence amongst SAT partners and other relevant agencies.
 - to evaluate potential impacts of an event on their own organisation and the wider community.
 - to use information to inform and develop multi- agency contingency planning for their organisation
 - each agency to highlight, upon request, and where possible, sources of potential further advice to event organisers.
- 2.7 We would encourage membership of a “Watch” scheme, e.g. Pub watch, Off watch. We would encourage all businesses to invest in staff training and maintain written records of the training to promote the licensing objectives.
- 2.8 This policy provides information and guidance to licence applicants, objectors and any other person on our approach to the Licensing Act. Each application will be considered on its own merits. We will have regard to this licensing policy and guidance issued under section 182 of the Act n making our decision.
- 2.9 The Act places a duty on the Council to carry out all its functions under the Act with a view to promoting the four Licensing objectives, namely:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- Each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are always paramount. Each licence application will be considered on its own merits in the context of the four licensing objectives, and unless relevant representations are received from responsible authorities or other persons, there is no provision for a licensing authority to impose conditions on a licence other than those proposed within an application and mandatory conditions prescribed by the Act.
- 2.10 However the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include
- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;

- giving the police and licensing authorities the powers they need to effectively manage and police the night- time economy and take action against those premises that are causing problems;
 - recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
 - providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
 - encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.
- 2.11 For the purposes of the Act, the following are licensable activities:
- The sale by retail of alcohol;
 - The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
 - The provision of regulated entertainment;
 - The provision of late night refreshment.
- 2.12 The Act provides for four different types of authorisation to regulate the provision of these activities:
- **Personal licences** – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence
 - **Premises Licences** – to use a premises for licensable activities
 - **Club Premises Certificates** – to allow a qualifying club to engage in qualifying club activities
 - **Temporary Event Notices** – to carry out licensable activities at a temporary event
- 2.13 Nothing in this Policy will:
- prevent any person from applying for any permission and we will consider each application on its individual merits
 - prevent any person from making representations on any application or applying for a review of a licence or certificate under the 2003 Act.
- 2.14 We expect all applicants for premises licences and club premises certificates to specify the means by which they will promote the four licensing objectives. The application form includes an operating schedule addressing the licensing objectives. This should be completed with particular regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community. An applicant may volunteer any measure as a step they intend to take to promote the licensing objectives. The measures are likely to be incorporated into the licence as conditions and become enforceable under law. When completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must

also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

- 2.15 The operating schedule should contain a dispersal policy if applicable, which sets out the steps which will be taken at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premise. The policy could include measures to disperse customers over an extended period and ensure customers leave the venue in an orderly fashion and without bottles or glasses.
- 2.16 Certain temporary events can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are advised to submit their notification a minimum of 10 working days prior to the event to enable the application to be processed. This does not include the day of service or the day of the event. The Council operates a Safety Advisory Group and Temporary Event Notices may be required to be considered by the Group.
- 2.17 Special occasions such as Bank Holidays, birthday parties and private functions in relation to public houses will be dealt with by way of a Temporary Event Notice unless detailed in the operating schedule.
- 2.18 Premises licences for appropriate public spaces within the district are held in our own name. The Council hold licences for Hatfield Town centre, and Campus West WGC and details are in Appendix D.

3. Contact details/ Advice and Guidance

- 3.1 Details on making specific applications can be found at our website www.welhat.gov.uk/licensing. Application forms can be downloaded and posted or applications can be made online via Gov.UK. Advice can be given before you make your application to resolve potential problems and where possible avoid unnecessary hearings and appeals.

Contact details:

Licensing
Welwyn Hatfield Council
Council Offices
The Campus
Welwyn Garden City
Hertfordshire
AL8 6AE

Telephone: 01707 357925

Email: licensing@welhat.gov.uk

4. Formulation of this policy

- 4.1 This policy statement is based upon the Act and takes account of the Home Office Guidance (revised December 2023) to local authorities.
- 4.2 The Act requires the Council to review its Licensing Policy every 5 years. In determining its Licensing policy, the Council will have regard to any Guidance issued by central government [*including that under section 182 of the Act*] and guidance from other regulatory bodies to ensure that its actions are consistent with those nationally. To further ensure consistency, the Licensing authorities of Hertfordshire and Bedfordshire will meet as necessary to ensure a degree of consistency is being achieved throughout the two counties.
- 4.3 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers. All will have views and potential concerns that require the Council's consideration before policy decisions are taken.
- 4.4 Therefore, before determining its policy for any five-year period, the Council will consult all persons stipulated in the Act as requiring consultation, namely:
- The Chief Police Officer of the Hertfordshire Constabulary;
 - The Hertfordshire Fire and Rescue Service;
 - Each primary care trust or local health board
 - Such persons the Council considers as being representatives of the holders of Premises Licences issued by the Council;
 - Such persons the Council considers as being representatives of the holders of Personal Licences issued by the Council;
 - Such persons the Council considers as being representatives of the holders of Club Premises Certificates issued by the Council;
 - Such persons the Council considers as being representatives of the businesses in its area;
 - Such persons the Council considers as being representatives of the residents in its area.
- 4.5 Additionally the Council will consult other individuals and representatives of groups, as it deems appropriate. A list of all those consulted may be found in Appendix B.
- 4.6 The Council will give proper weight to the views of all parties consulted prior to this policy statement being adopted and taking effect on insert date.

5. Conditions

- 5.1 Licensing is about the regulation of licensed premises, qualifying members' clubs and temporary events. We may only impose conditions on premises licences and club premises certificates in two circumstances: firstly where the applicant volunteers them as part of their operating schedule; and secondly on receipt of relevant representations from potentially affected members of the public or

responsible authorities, which the licensing authority accepts as being relevant.

- 5.2 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 SI 2010/860 introduced new mandatory conditions as part of a revision to s.19A and 73 B of the Act in 2010. These do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol on the premises. The requirements for a Designated Premises Supervisor (DPS) and for all sales to be made or authorised by a personal licence holder do however have to be physically included in the licence. Only condition 5 of SI 2010/860 will apply to premises licensed for the sale or supply of alcohol for consumption off the premises. The mandatory licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 5.3 Condition 1 of SI 2010/860 refers to 'irresponsible promotions' in relation to the retail sale of alcohol for consumption on the premises. Any irresponsible promotion is one that fits the descriptions in the guidance at 10.39-10.44 (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which undermine the licensing objectives.
- 5.4 Conditions will only be attached to premises licences or club premises certificates where they are reasonable, proportionate, enforceable and relevant to the premises. They should focus on matters within the control of the individual licence holder or premises user (for temporary event notices). Conditions will be tailored to the type of operation and specific characteristics of the individual premises.
- 5.5 Where no representations have been received, we must grant the authorisation as set out in the operating schedule accompanying the application and those that are required by statute.
- 5.6 Any conditions should be:
 - clear
 - enforceable
 - evidenced
 - proportionate
 - relevant
 - be expressed in plain language capable of being understood by those expected to comply with them.
- 5.7 We expect all applicants for premises licences and club premises certificates to specify the means by which they will promote the four licensing objectives. The application must include an operating schedule addressing the licensing objectives, in particular with regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community. An applicant may volunteer any measure as a step he or she intends to take to promote the licensing objectives. The

measures are likely to be incorporated into the licence as conditions and become enforceable under the law.

- 5.8 Conditions on operating schedules will be interpreted in accordance with the applicant's intention and will not necessarily replicate the wording exactly.
- 5.9 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore, beyond the direct control of the *individual, club or business holding the licence, certificate or authorisation* concerned. Therefore, conditions will not normally impose obligations on the licence holder where it is beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night time economy in town centres.
- 5.10 However licensees and certificate holders should maintain control of external areas for example beer gardens or smoking shelters. In appropriate circumstances the Council will look to other mechanisms, which are available for addressing any issues.
- 5.11 The Act requires that any conditions attached to licences must be specific to individual premises and tailored to the characteristics and style of the licensable activities rather than applying a set of standardised conditions to all. The Council will therefore always ensure that conditions are individually selected and appropriately tailored. In some cases conditions may be drawn from pools of conditions set out in the Guidance issued under section 182 of the Licensing Act 2003.
- 5.12 If you are a **community premises** such as a church or village hall you can now apply to remove the mandatory conditions in section 19(2) and (3) of the Licensing Act 2003. These conditions stated that you must have a designated premises supervisor (DPS) who is a personal licence holder to authorise every supply of alcohol. This can be removed and replaced with a requirement for a management committee responsible for the supply of alcohol. A management committee of a community, church or village hall can apply for the removal of the conditions from an existing licence, or apply for a licence that does not include these conditions. There are three types of application that can be made:
- an application to replace the requirement to have a DPS with the alternative licence condition for an existing premises licence to supply alcohol.
 - a new application for a premises licence including the supply of alcohol under the alternative licence condition.
 - an application to vary an existing premises licence to add the supply of alcohol under the alternative licence condition
- 5.13 The DCMS Guidance and relevant forms can be found on the Council's website: [Apply for an alcohol and entertainment licence – Welwyn](#)

[Hatfield Borough Council \(welhat.gov.uk\)](http://welhat.gov.uk)

6. Duplication

6.1 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environment Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators Code under the Legislative and Regulatory Reform Act 2006

7. Partnership Working

7.1 There is a continued emphasis on working between the Police, the Environmental Health Authority, Home Office Immigration Enforcement and the Licensing Authority.

7.2 Additionally, in carrying out its functions, the Act requires the Council to determine and have regard to a Licensing policy and any guidance from the Secretary of State. The purpose of this document is to detail how the Council will comply with these duties. This document is the Licensing policy of the Welwyn Hatfield Borough Council and it is to be read in conjunction with the Act and associated regulations and guidance from the Secretary of State. Furthermore, all Licensing activities undertaken by the Council will be carried out so far as is possible to meet the requirements of the Human Rights Act 1998, that ensures the rights and freedoms of individuals; and to fulfil the Council's obligations under section 17 of the Crime & Disorder Act 1998, to do all that is reasonably possible to prevent crime and disorder within the Borough. This Licensing Policy is concerned with the regulations of licensable activities and is focussed on the direct impact(s) of those activities. By consulting widely prior to this policy statement being published the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

7.3 The Act does not always allow applicants to fully explain their proposals, leading the public and responsible authorities to misunderstand what is being proposed. This can lead to representations being made and it is only at the licensing hearing that it becomes clear what is being proposed. We would strongly encourage

applicants to hold pre-application discussions with us, responsible authorities and local residents or businesses before submitting applications.

- 7.4 We will work in partnership with the nominated responsible authorities, the Police and Crime Commissioner, Directors of Public Health, and our partners within the Community Safety Partnership to promote the objectives of the Licensing Act and other local and national strategies and initiatives, such as:
- Pub Watch and Off watch Schemes
 - Alcohol Harm Reduction Strategy
 - Prevalence, prevention and reporting of sexual harassment and misconduct and broader violence against women and girls crimes.
- 7.5 The licensing authority will consider each application on its own merits.
- 7.6 Pub Watch has been developed to enhance the security of customers and staff for all types of premises so that they can safely enjoy the facilities offered by the Trade. We take an active part in the scheme and will work with all licence holders to continue to promote a safe and vibrant borough but do not organise the scheme.
- 7.7 We will support the use of the PASS schemes in conjunction with Trading Standards.
- 7.8 We must have regard to the **Crime & Disorder Act 1998** and the likely effect of the exercise of our functions. We will do all that we can to prevent crime and disorder in our area. We will have particular regard to the likely impact of licensing on related crime and disorder in the borough particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions.
- 7.9 The Government produced the **Safer Clubbing Guide** in order to improve safety for all club goers and in particular to reduce the risk of harm associated with drug use and clubbing. The licensing regime is expected to use a range of conditions to control the environment at night club premises or late night venues. We will work proactively with partners such as the police, club owners and local drug awareness agencies to minimise the risk of drug use on premises.
- 7.10 The **The Antisocial Behaviour, Crime and Policing Act 2014**) is designed to provide local authorities and the police with a wider, more flexible range of powers to meeting existing responsibilities and respond to the needs of their communities. The Act provides powers and sanctions to deal with serious anti-social behaviour including the immediate closure of licensed premises causing a public noise nuisance.
- 7.11 Care will be taken to ensure that where there is an overlap between the licensing regime and other statutory regulatory systems, duplication will be avoided and control exercised through the most appropriate system.
- 7.12 **Planning** permission is usually required for the establishment of new

premises and the change of use of premises. Planning permissions that are relevant to licensed premises include:

- 7.13 All premises that have a premises licence or club certificate must also have authorised planning permission, must comply with all conditions of that planning permission, or be deemed permitted development pursuant to the General Permitted Development Order (1995). A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required. In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.
- 7.14 The Licensing and Planning regimes are separate and distinct regulatory functions. Any restrictions on the planning permission are not relevant to the determination under the Licensing Act. However, we would recommend that applicants discuss any restrictions on their permission with the Local Planning Authority.
- 7.15 The **Health and Safety at Work Act 1974** (and other relevant statutory provisions) impose duties on employers, employees and persons in control of premises to prevent where possible or minimise the risk of injury or ill health to people affected by work activities or the condition of the premises. Local authorities are the enforcing authority for the majority of premises on which licensable activities are carried out, with the Health and Safety Executive being responsible for some other premises.
- 7.16 There are general duties, for example risk assessment under the Management of Health and Safety at Work Regulations 1992, but these may not adequately cover specific issues which arise from licensable activities such as the provision of regulated entertainment. Licensing objectives overlap with health and safety requirements in so far as the licensing objective for public safety requires businesses to consider risks on their premises.

7.17

The **Environmental Protection Act 1990** places a duty on local authorities to investigate complaints of statutory nuisance made to it by a person living within its area which include noise and where a local authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the authority, the local authority shall serve a notice (“an abatement notice”). The Licensing Act provides the power for the police to temporarily close licensed premises to prevent nuisance to the public as a result of disorder from the premises. The Anti-Social Behaviour Act gives Environmental Health Officers and the police powers to close noisy premises for up to 24 hours. Joint working procedures or protocols between Environmental Health Officers, police and licensing staff will ensure that these control measures are properly used to protect the local environment.

- 7.18 Community Protection Notices may be appropriate to deal with certain detrimental effects arising from licensed premises such as litter.
- 7.19 Where a premises conforms to current **fire safety** standards the Licensing Authority need not attach conditions to any licence or certificate. We work with fire authorities to ensure that the public is properly protected. We only add conditions to the premises licence or certificate where it is necessary to promote the licensing objectives.
- 7.20 The **Equality Act 2010** introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics, and to promote equality of opportunity and good relations between persons of different racial groups. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.
- We will therefore consider this responsibility when imposing conditions on licences so as to ensure that they could not directly or indirectly lead to discrimination.
 - The Act requires public sector authorities such as Welwyn Hatfield Council to fulfil additional 'specific duties'. The specific duty is all about providing information on its performance to the public. The information (which must be published in a clear, easy to understand format) should include: 1 How we comply with the General Duty 2 How we are assessing our policies and practices to make sure they are non-discriminatory 3 Our Equality Objectives – what we are doing to further the aims of the General Duty 4 How we have consulted with others to achieve the General Duty and to develop our Equality Scheme
[Equality policy – Welwyn Hatfield Borough Council \(welhat.gov.uk\)](http://welhat.gov.uk)
 - Further guidance as to this matter is available from the Equality and Human Rights Commission.
- 7.21 The **Human Rights Act 1998** incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 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 by law
 - Article 8 - that everyone has the right to respect for private and family life, home and correspondence.

- 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

7.24 For the purpose of ensuring an informed approach to the execution of its duties under the Act, the Council has liaison arrangements between itself, the Hertfordshire Police, the Hertfordshire Fire and Rescue Service, the Hertfordshire County Council Social Services and the Hertfordshire Safeguarding Children Board. Internal liaison arrangements will be established between the Environmental Health Service, the Community Safety Section, the Planning Section and Legal Services.

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7.22 The Council will co-operate with the Security Industry Authority as far as possible and will consider adding conditions to licences concerning the provision of security personnel where necessary and appropriate.

8. Interface with planning controls

8.1 The Council will ensure that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. The Council recognises that Licensing and planning regimes involve consideration of different (albeit related) matters. As such applications are not the same and are to be dealt with separately by the appropriate Committees. Licensing Committees are not bound by decisions made by a Planning Committee. The granting by a Licensing Sub Committee of any variation of a licence which involves a material alteration to a building does not relieve the applicant of the need to apply for planning permission or building control, nor imply that such an application will be approved.

8.2 The Council recognises that the 'need' for new premises is not considered within the remit of the Act. The assessment of need for retail and leisure development is a matter for the planning authority to consider when planning the core strategy.

8.3 The Council recognises that a condition of planning permission may set a terminal hour for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. However, the Council will not use the fact that an applicant has gained planning permission as an influencing factor in favour of granting a licence.

8.4 Where there is an application for planning permission, the National Planning Policy Framework expects new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or

'agent of change') should be required by the local planning authority to provide suitable mitigation before the development has been completed, Where hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

- 8.5 The Council will not treat Licensing applications as a re-run of the planning application process and shall not undermine, influence or have any bearing on decisions made by the planning authority, or appeals against those decisions. Integration can be assured by licensing committees reporting to planning committees where appropriate and a planning authority can make representation against an application if it relates to the licensing objectives. Discussion may take place between licensing committees and officers and their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

9. Decision Making Forums

- 9.1 Licensing decisions will be made in consideration of all relevant legislation, guidance and this policy. The Council will not make decisions that are contrary to the Act, but may deviate from guidance in exceptional circumstances, based on the merits of an individual application. Where this occurs, the Council will give reasons for the departure.
- 9.2 In accordance with the Act and guidance, the Council will set up three decision-making forums, namely a Licensing Committee, a Licensing Sub Committee and a scheme of delegation to Officers. In the interests of speed, efficiency and cost, the Council will ensure that all decisions are delegated to the most appropriate level within the organisation, as shown in Appendix C. All decisions will be made objectively and not on the basis of any political judgement.
- 9.3 The Licensing Act 2003 does not prevent the development by a licensing authority of collective working practices with other parts of the local authority or other licensing authorities for work of a purely administrative nature, e.g. mail-outs. In addition, such administrative tasks may be contracted out to private businesses. But any matters regarding licensing decisions must be carried out by the licensing committee, its sub-committees or officers.
- 9.4 The Act itself creates a presumption that applications will be granted unless a representation is received. Where a function is delegated to an officer that officer will be responsible for liaising between the applicant; the public objectors and the responsible authorities to ensure that any licence granted is subject to the appropriate conditions. Where representations are made then the licensing officer will once

again liaise with the applicant; the public objectors and the responsible authorities to see if an agreement is possible to overcome the objections without the need for the matter to go before the Sub-Committee. Where representations are raised which cannot be settled matters will be referred through to the Sub Committee for determination. Contested licensing applications are quasi-judicial in nature, the Sub Committee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure is designed to ensure that all parties are able to express their views openly and fairly.

- 9.5 The Sub-Committee procedure is inquisitorial rather than adversarial and, whilst applicants, public objectors, and responsible authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement to do so.
- 9.6 The Sub- Committee usually meets in public; it does have power to hear certain applications in private. The Sub-Committee, will always reach its decision in private. As a matter of good practice, a public announcement of the decision is usually made at the end of the Hearing.
- 9.7 The Sub-Committee will determine each case on its individual merits whilst taking into consideration the terms of this Policy document. Where the Sub- Committee determines that it is appropriate to attach conditions to the licence/certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned on members of the public in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.
- 9.8 It should be noted that when one part of a local authority seeks a premises licence of this kind from the licensing authority, the licensing committee and its officers must consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they must be considered fairly by the committee. Anyone making a representation that is genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority would be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision

10. The Welwyn Hatfield Council Licensing Committee

- 10.1 The Council will maintain a Licensing Committee consisting of between 10 and 15 Members of Welwyn Hatfield Borough Council. The Licensing Committee will meet as often as is necessary to consider appropriate matters.
- 10.2 The full Licensing Committee will review this policy when changes to the legislation are made by central government or if there is any other

legitimate reason to do so. A report will then be made to Full Council to approve revisions.

11. Licensing Sub Committee

- 11.1 The Council will set up a Licensing Sub-Committee of 3 Members from the Welwyn Hatfield Borough Council's Licensing Committee. The Sub-Committee will meet and hear every application where representations are made unless resolved by mediation between all parties.
- 11.2 Where the subcommittee exercises its discretion at a hearing it will have regard to this licensing policy and guidance issued under section 182 of the Act..
- 11.3 Ward Councillors may sit on a Sub-Committee involving an application in their ward subject to the rules on prejudicial interest and apparent bias/predetermination.

12. Scheme of delegation to Officers

- 12.1 The Council has delegated authority to the Executive Director who has authorised the Licensing Team leader to grant licence applications under the Act that are non-contentious and where there are no unresolved representations. The Council recognises that the Licensing Committee cannot reverse officers' decisions.

13. The Licensing Authority as a Responsible Authority

- 13.1 We, as the licensing authority, are now included within the prescribed list of Responsible Authorities for the Licensing Act 2003. As a responsible authority, we will not make representations on behalf of other parties such as residents, local councillors or local community groups, as they already have the ability to make representations about licensing applications.
- 13.2 We consider that our role as the licensing authority is to ensure that the conditions attached to a licence or certificate are clear, proportionate and enforceable. Therefore we will use our role as a responsible authority to make representations when conditions do not meet this requirement. Where a licence or certificate holder has previously failed to comply with conditions on their permission, we may make representations where we consider the grant of a licence or certificate will undermine the licensing objectives.
- 13.3 Where we make a representation it will be submitted by an officer who

has not been a part of the administrative process of the application. Our scheme of delegation at Appendix C.

14. Health as a Responsible Authority

- 14.1 First-tier local authority Directors of Public Health are now responsible authorities with the ability to make representations against licensing applications.
- 14.2 There is no licensing objective relating to health therefore any representations made by or on behalf of the Director of Public Health must consider the promotion of the four licensing objectives.

15. Home Office Immigration Enforcement as a responsible authority

- 15.1 Home office immigration enforcement officers are now responsible authorities with the ability to make representations against licensing applications and also gives them the power to review licences.
- 15.2 Individuals applying for a premises licence for alcohol or late night refreshment must be entitled to work in the UK. Persons may apply for a licence for regulated entertainment only without immigration status but they will commit a criminal offence if they work illegally.
- 15.3 The documents that may be relied upon in support of an application demonstrating an entitlement to work in the UK are the same as for personal applicants.

16. Sexual Entertainment

- 16.1 Welwyn Hatfield Borough Council has adopted the provisions under the Local Government (Miscellaneous Provisions) Act 1982, schedule 3 for the licensing of sex shops, cinemas and sexual entertainment venues, as amended.
- 16.2 Premises seeking to provide regulated entertainment at their premises that will commonly be of an adult nature should consult with the licensing authority in the first instance as to whether separate permission will be required.
- 16.3 In summary, premises seeking to provide sexual entertainment such as lap dancing or like activity more frequently than 11 times a year, and more than one occasion per month will need to ensure that they have the appropriate permission(s) for these activities from the Licensing Authority in accordance with the Local Government (Miscellaneous Provisions) Act 1982, as well as those in accordance with the Licensing Act 2003.
- 16.4 The licensing authority is keen to ensure that any premises looking to provide any such entertainment of an adult nature is proactive in its operations to promote the licensing objective "Protection of Children from Harm", and will expect operating schedules to address this very

matter by giving consideration to conditions as to entrance policy, security measures for staff and customers alike, staff training and management policies so as to ensure that this, and the remaining three licensing objectives are fully promoted.

17. Drugs and new psychoactive substances

17.1 Where relevant representations have been received, special conditions may be imposed for certain types of venues to prevent the sale and consumption of drugs and to create a safer environment for those who may have taken them. These conditions will take into account any relevant guidelines issued by the Home Office. Where these conditions are to be considered, advice may be sought from appropriate bodies such as the Police.

17.2 The Licensing Authority expects all licensed premises to adopt suitable measures to detect and discourage persons from using controlled drugs (which for the purposes of this section means substances which are prescribed under the Misuse of Drugs Act 1971) while on those premises. Examples of such measures may include, but are not limited to, the following:

- Ensuring a highly visible staff presence throughout the premises
- Regular checks by staff of ancillary areas such as lobbies, toilets, cloakrooms and corridors
- Redesigning toilet facilities to remove horizontal surfaces, and niches and other areas where illicit items could be concealed
- Ensuring that all staff, and door staff in particular, are trained to recognise visible signs that a person is under the influence of an illegal substance, and to refuse such persons entry to the premises
 - Operating robust 'search on entry' policies, with procedures in place to confiscate controlled drugs found during searches and hand these to police at the earliest opportunity
 - Carrying out testing on surfaces within the premises to detect the presence of traces of controlled drugs
- Enforcing a zero tolerance policy to the use or supply of controlled drugs within the premises, ejecting or refusing entry to persons known to be linked to the use or supply of controlled drugs, and reporting to the police any person suspected of supplying controlled drugs

17.3 Where a licence holder believes that there may be an Issue with the illegal use or supply of controlled drugs within their premises, they are strongly encouraged to contact Hertfordshire Constabulary for advice and assistance in remedying that issue. This may involve a degree of 'target hardening' – redesigning parts of the premises or operating procedures to more easily detect and discourage such practices. Where premises are co operating with the Police to deal with such issues, the Licensing Authority is less likely to take action to remove or restrict the licence, than it would with premises which do not offer co-

operation.

- 17.4 For the purposes of this part of the Policy, the Licensing Authority will regard new psychoactive substances (widely referred to as 'legal highs') in the same way as it does controlled drugs, and will expect that the measures taken in licensed premises to detect and discourage the use of controlled drugs will also extend to these substances, which generally mimic the effect of a controlled drug.
- 17.5 The Licensing Authority expects that licensed premises will not engage in, sanction nor condone the sale or supply of new psychoactive substances in or from their premises, and may seek to take enforcement action against premises that are found to be doing so.
- 17.6 The Licensing Authority recognises that Government has committed to strengthening the legislation around the supply and use of new psychoactive substances and welcomes such moves.

Modern slavery

18. 1 Modern slavery is a crime. The UK Modern Slavery Act 2015 includes the following under the offence of modern slavery:
- Slavery, where ownership is exercised over a person
 - Servitude, where a person is obliged to provide services imposed by coercion
 - Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily
 - Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them
- 18.2 In the UK, estimates go as high as 136,000 when quantifying the number of hidden victims living in conditions of slavery. Government agencies in the UK have specifically identified hospitality as a high-risk area for modern slavery. Licensed premises might be unwitting hosts to modern slavery in two ways: 1. Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way. 2. Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.
- 18.3 Identification and Reporting. Staff at licensed premises can have the power to identify and report any exploitation they encounter. A licence holder may ensure awareness of modern slavery by:
- Identifying any risks at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.

- Actively informing those working on the premises of their rights and how they can confidentially seek help or advice on modern slavery if required.
 - Provide regular training to all staff on the indicators of modern slavery and how to report concerns.
 - Establishing strong relationships with local police and victims service providers, such as the national Modern Slavery Helpline (0800 0121 700), in advance of any incident.
- 18.4 Child Sexual Exploitation (CSE) High-profile cases around the UK have acted to highlight the potential links between victims of child sexual exploitation and licensed premises. As licensing authorities have a statutory duty to ensure the protection of children from harm through the exercise of their licensing functions, it is important that licence-holders are aware of the potential for premises to be used by persons who are exploiting children for sexual purposes and take appropriate measures to detect and discourage this.
- 18.5 Child sexual exploitation generally involves a young person being encouraged, coerced or forced into participating in a sexual relationship or activity by an adult. It frequently involves the victim being offered something in exchange for this, such as money, gifts, food, alcohol, cigarettes, drugs, involvement in adult situations, or sometimes just attention. Victims may have been subject to a grooming process lasting for weeks, months or years.
- 18.6 There is no single model of sexual exploitation – different cases will all have different circumstances. Similarly victims can be very different. While some victims may have had troubled backgrounds, others may come from prosperous and loving families.
- 18.7 There are a number of indicators which may indicate possible child sexual exploitation. These include, but are not limited to:
- relationships which develop between a child and an adult;
 - children accompanied by a group of unrelated adults;
 - children regularly attending premises and meeting with a number of different adults, particularly if alcohol is being purchased for the child;
 - children outside of licensed premises who develop relationships with adults, particularly if alcohol is being purchased for the child;
 - children leaving the premises with unrelated adults, particularly with a group of adults;
 - children looking uncomfortable in the company of or leaving the premises with adults, or groups of adults.
- 18.8 It must be stated that not every instance of the behaviours listed above will indicate exploitation, and many interactions between children and adults will be perfectly innocent. However, if staff at licensed premises have reasonable grounds for suspicion (for example, if the child does not appear to know the adults they are with or appears distressed) then

they should be urged to report this.

18.9 The Licensing Authority expects licence-holders and applicants for new licences to be aware of the possibility of child sexual exploitation taking place in or around licensed premises, and to adopt suitable protective measures to assist in the detection and reporting of incidents of this. These may include:

- inclusion of child sexual exploitation issues within training programs for new and existing staff,
- written management procedures for identifying and reporting suspicious behaviour to police,
- frequent monitoring of all areas of the premises and immediate vicinity, including external areas, to detect behaviours of the types listed above.

18.10 Hertfordshire Safeguarding Children Board, in conjunction with Hertfordshire Constabulary, can assist with guidance to the management and staff of licensed premises, and of hotels.

19. **Making an application**

19.1 All the relevant information about how to make an application is available on the Council website.; <https://www.welhat.gov.uk/homepage/98/apply-for-an-alcohol-and-entertainment-licence> under the business tab.

19.2 Online applications can be made through the council's website using the government's GOV.UK portal.

19.3 If the application is being made by an individual it should be accompanied by acceptable evidence of entitlement to work in the UK (this includes where the application is submitted electronically) as set out in the application form.

19.4 Engagement is an important element of the licensing process. Applicants are expected to have considered the location and community it is proposing to operate in. An understanding of the concerns to be addressed can be obtained by early engagement with a variety of bodies and individuals including:

- Responsible authorities
- Ward councillors
- Town councils
- Parish councils
- Residents Associations
- Businesses and residents in the vicinity of the proposed premises

Applicants should consider contacting those who may be affected by the application before formulating their application so that the mediation process may begin before the statutory time limits come into effect after submission of an application.

20 Late Night refreshment Exemptions

20.1 It is possible to have areas where there is an exemption to certain forms of Late Night Refreshment licensing where the local authority has designated a particular area as exempt. This Council has not designated any areas at this time but if it were to do so there are only certain types of premises that can be exempted as set out in the regulations. These include motorway service stations, petrol stations, some local authority premises and schools, hospitals, community premises and licensed premises.

21. Personal licences

21.1 In the case of an application for a personal licence under Part 6 of the Act the requirements set out in the Act shall be required.

21.2 Any individual may apply for a personal licence whether or not he is currently employed or has business interests associated with the licence use. However proof of entitlement to work in the UK must be provided.

21.3 Where an applicant has unspent convictions relevant to the Act, the Council recognises that the Police may object on crime prevention grounds. Should this occur, the Council will consider the application at a Licensing Sub Committee. The Council attaches great importance to the character of the applicant and will not normally grant the licence against a Police objection unless satisfied that the applicant is a person who can be trusted to observe the statutory obligations placed on licensees. The Council will ensure that the reasons for any grant or refusal in such an occurrence are fully recorded. The Council recognises that the applicant or Police may appeal against any decision made by the Licensing Sub Committee.

21.4 Once a decision to grant a Personal Licence has been made, the Council will notify the applicant and local Police and will issue the Personal Licence in the prescribed form within 10 working days. All Personal Licences granted will [be in the prescribed format] and will specify the holder's name and address and details of the Council as the Licensing authority. Once granted, a Personal Licence will be valid indefinitely unless surrendered or declared suspended or forfeit by the courts. The Council recognises that where any relevant conviction comes to light after the grant or renewal of a Personal Licence, the Act makes provision for the revocation of the licence.

21.5 All holders of a Personal Licence issued by this Council must apply to this Council for any changes to be recorded whether or not they continue to live or work within the Council boundary. The Council

expects to be informed by Personal Licence holders of all changes to names and/or address, and any convictions for relevant offences. The Council also expects to be informed by the Courts following the conviction of a holder of a Personal Licence issued by the Council.

21.6 The Police and Crime Act 2017 introduced the power for Licensing Authorities to revoke or suspend personal licences. This is a discretionary power but if this Council becomes aware of a personal licence holder having been convicted of a relevant or foreign offence then the case will be heard by our licensing subcommittee.

21.7 There have been some amendments to the schedule of relevant offences under schedule 4 of the Licensing Act 2003 and these will be borne in mind.

22. Designated premises supervisor

22.1 A personal licence is required by individuals who may be engaged in making and authorising the sale or supply of alcohol. Not every person retailing alcohol at a premises licensed for that purpose needs to hold a personal licence although the licensing authority expects that every person authorised to make a sale of alcohol is clearly identified, for example by way of a written statement.

23. Public register

23.1 We are required to produce a public register containing details of the applications that have been made and this can be found at <https://archive.welhat.gov.uk/licensing/public-registers>
If further information or details are required you can contact the licensing team using the details at page 9.

24. Making a representation

24.1 Responsible authorities and 'any other person' may make representations on applications for premises licences or club premises certificates, or variations of such licences. The representation must be relevant to at least one of the four licensing objectives and relate to the specific premises. Only the police can make a representation to the transfer of a premises licence, variation of a Designated Premises Supervisor or a personal licence. Both Environmental Health and the Police can object to a Temporary Event Notice (TEN) under any of the licensing objectives.

24.2 Representations must be made in writing and must be received by us within the statutory consultation period (28 days). We do not have to consider any representations received after the end of consultation but we have discretion to consider late representations [Belfast City Council v Miss Behavin' Limited (2007)].

24.3 Representations about an application may be in support of the application or objecting to the application.

25. Vicinity

25.1 The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to mean that any person may make a representation about a premises licence or club premises certificate application. They no longer need to establish that they live or work near to the premises. The representation must, however, be relevant to at least one of the licensing objectives and must not be frivolous or vexatious.

25.2 In making a decision as to what weight to attach to a relevant representation, we may consider whether the individual is likely to be directly affected by disorder or disturbance occurring or potentially occurring on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration. However, each representation will be judged on its own merit.

26. Temporary Event Notices (TENS)

26.1 A temporary event notice [TEN] is a streamlined way to obtain temporary permission to carry out licensable activities. A TEN is required to be given for the use of a premises or an area for one or more licensable activities which may involve the sale of alcohol, regulated entertainment or late night refreshment (LNR) which are not authorised by a Premises Licence or Club Premises Certificate.

26.2 TEN's are often given for premises not currently covered by a premises licence or club premises certificate. They can also be used to extend the hours of premises or clubs that currently have permissions. TEN's can be used by individuals to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time, including any staff, organisers or performers and lasting for no more than 168 hours (7 days). Other limitations can be found under TENS in the Guidance under section 182 of the licensing Act last updated December 2023.

26.3

26.4 The most important aspect of the system of permitted temporary activities is that no authorisation as such is required for these events from the Licensing Authority. The process involves notification of an event to the Licensing Authority, the police and the environmental health authority. Only the police and environmental health may intervene to prevent such an event from taking place.

- 265 The Licensing Authority may only ever intervene itself, if the limit on numbers of events is exceeded. Otherwise, the Licensing Authority is only required to issue a timely acknowledgement.
- 26.6 For a '**Standard**' TEN, the premises user must, no later than 10 clear working days before the day on which the event is to start and not including the day of the event, give a notice to us. This should have with it the prescribed fee. You should also send a copy on the same day to the Police and another to Environmental Health Authority. The Police and/or Environmental Health may submit an objection notice if they consider that by allowing the event to take place at least one licensing objective would not be met.
- 26.7 Where the Police or Environmental Health object and the objection is not withdrawn we will hold a hearing to consider the objection. The Police or Environmental Health may agree modifications to address their concerns prior to the hearing.
- 26.8 If the TEN is in connection with licensed premises, the Licensing Sub Committee may impose one or more of the existing licence conditions. Conditions can **only** be imposed on the TEN where they already exist on the premises licence or the club premises certificate. The Act requires the conditions to be appropriate for the promotion of the licensing objectives **and** not inconsistent with the carrying out of the licensable activities.
- 26.9 There are also '**Late**' TEN's which can be served **between** 9 and 5 clear working days before the day on which the event is to start and not including the day of the event. If there is an objection from either the Police or Environmental Health, the event will not go ahead because there is no ability to hold a hearing or agree modifications.
- 26.10 The Council have an established 'Safety Advisory Group' (SAG) comprising of representatives from the emergency services and other statutory agencies. This Group advise and co-ordinate planning for public events in the district whether or not a premises licence or a temporary event notice is needed.
- 26.11 **We recommend that applicants provide as much notice as possible of any event you intend to hold under a TEN. You should ensure that you provide as much specific detail about the nature of your event as is possible on the TEN. E.g. whether the premises are an open field, beer tent or an area inside a building.**

27. Large outdoor events and events attended by over 5,000 persons

- 27.1 Organisers of large events are strongly advised to contact the Council's Licensing Team for advice at the earliest opportunity when planning events. An event notification form should be submitted to licensing@welhat.gov.uk then where considered necessary, the advice of the 'Safety Advisory Group' can be obtained. The SAG is a multi-agency body, which includes representatives of the Licensing Authority, responsible authorities and other statutory bodies who have involvement in the organisation and safe running of events.

Discussions may also be held with the Police and Environmental Health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.

- 27.2 The organisation of outdoor events of any size is a significant undertaking, with a multitude of issues which must be taken into account. Licensing is only one aspect of the regulation and control of such events.
- 27.3 Generally we would expect the organisers of all outdoor events to follow the advice contained in the "Purple Guide" when planning their event. This document contains guidance written by and for the events industry in respect of safety and welfare aspects of event management, and replaced earlier guidance issued by the Health and Safety Executive.
- 27.4 For larger events, taking place under the authority of premises licences, it is recommended that organisers consider engaging professional advice and assistance, particularly with regards to issues which may affect public safety.
- 27.5 Prior to applying for a licence, event organisers will need to secure permission from the appropriate landowner for the site on which they intend to hold their event. In the case of public land which the Council is responsible for managing, including parks and common land, approaches should be made to the Estates team within the Council.
- 27.6 One of the major concerns arising from outdoor events is disturbance to local residents from noise associated with music entertainment at the event, or other noisy equipment such as generators, public announcement systems, fireworks, and so on. The Licensing Authority will expect to receive a comprehensive operating schedule from applicants, containing appropriate proposals to control such issues and promote the prevention of public nuisance licensing objective. Depending on the size and nature of the event it is likely this will need to include a comprehensive Event Management Plan (EMP) integrating a specific Noise Management Plan.
- 27.7 To mitigate these concerns as far as possible early engagement with those likely to be affected by an event is expected. Simply fulfilling the statutory obligation to advertise is likely to trigger representations and raise concerns more than if there has been early engagement.
- 27.8 Whilst a premises licence could be granted after 28 days of the application being served, applicants should be aware that the processing time for an application that has received relevant representations can be up to 2 months.
- 27.9. Organisers of festivals or concerts who require a temporary time limited premises licence are strongly advised to contact the Licensing Authority and Environmental Health at least 6 months prior the event taking place. This will ensure you will not be inadvertently breaching licensing laws by running events in this way.

28. Live Music Act

- 28.1 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:
- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises
 - amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
 - unamplified 'live' music between 8am and 11pm in all venues
 - the provision of entertainment facilities
- 28.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.
- 28.3 We will consider whether an activity constitutes 'the provision of regulated entertainment' in each case and consider each case on its own merits. We would encourage organisers to check with us as to whether we consider a performance is live music before making arrangements.
- 28.4 Provision of facilities for making music and dancing - The Act removes the need to licence entertainment facilities such as dance floors microphone stands and pianos etc. that are made available for use by the public.

29. Wholesalers

- 29.1 Businesses which sell alcohol (for example retailers of alcohol and trade buyers) need to ensure that the UK wholesalers they buy alcohol from have been approved by HMRC, under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty, or could even face a criminal prosecution and their alcohol stock will be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public does not need to register unless they sell alcohol to other businesses.
- 29.2 Businesses need to carry out checks prior to trading with each wholesaler and periodically afterwards.
<https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>

30.0 Circuses

30.1 It is clear that authority is needed under the Licensing Act should a circus sell alcohol or provide late night refreshment.

30.2 In addition, The Legislative Reform (Entertainment Licensing) Order 2014 deregulated entertainment in travelling circuses provided that the following qualifying conditions are met:

- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- the entertainment takes place between 08.00 and 23.00 on the same day;
- the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- the travelling circus has not been located on the same site for more than 28 consecutive days.

30.3 The position is less clear in terms of regulated entertainment, and we are aware of extremes in approaches by Licensing Authorities across the country. It is this Authority's opinion that the incidental music to a circus performance is not licensable, clowns may not necessarily be playing a dramatic role qualifying as a theatrical performance, trapeze artistes are not engaged in indoor sports and film performances are rarely included.

30.4 Evidence nationally indicates that circuses are low risk, pose no significant risk to the licensing objectives, add value to the cultural activities of a town, and are regulated by other means including compliance with the Health and Safety at Work etc. Act 1974. 30.5 Welwyn Hatfield Council does not support the application for any circus with performing animals on Council land.

31.0 Garages and motorway service areas

31.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:

- the retailing of petrol;
- the retailing of diesel (derv);
- the sale of motor vehicles; and
- the maintenance of motor vehicles.

31.2 If premises that are primarily used as a garage are granted a licence, that licence is "of no effect" and alcohol may not be lawfully sold.

31.3 Although there is no requirement in the legislation for an applicant for a licence to provide proof of primary use it is considered useful for this information to be included so that it is clear to all parties if the licence has affect or not. Applications that do not include this information will still be processed and determined as required by the Licensing Act 2003.

31.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. The Licensing Authority requests that evidence be based on income (from retailing petrol and derv and vehicles sales/maintenance versus other items) and the numbers of individual sales (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature.

- 31.5 Where insufficient evidence exists to establish primary use, we will decide whether or not grant a licence and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.
- 31.6 Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the licensing authority on a regular basis for the following two years to ensure the premises are not primarily a garage
- 31.7 Where relevant representations have been made and a Licensing SubCommittee will be the determining the application we shall treat it as an off-licence, as defined in this Policy.
- 31.8 Paragraph 5.23 of the statutory guidance issued under the Act makes it clear that the Licensing Authority must decide whether or not any premises is used primarily as a garage. We are aware that different authorities take a number of different approaches to this question. However, we hope that the proceeding paragraphs will guide applicants and licence holders as to the information we would like them to provide if this question arises

32. Film classification

- 32.1 Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the Licensing Authority. Where recommendations have been made by both bodies, and the Licensing Authority has notified licence holders of this, the Licensing Authority's recommendation will take precedence.
- 32.2 For the purposes of sections 20 and 74 of the Act, the Licensing Authority recognises the British Board of Film Classification (BBFC) as the film classification body, and will specify this body within the licences and certificates it issues.
- 32.3 The Licensing Authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or Licensing Authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 32.4 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a Licensing Authority recommendation should be displayed at or near the entrance to the screening.
- 32.5 The Licensing Authority anticipates that the BBFC's recommendations will apply to the vast majority of films shown at licensed premises within the District. However in a small number of cases, the Licensing Authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the borough. Such situations can be approximately characterised in one of three groups:

- In cases where the Licensing Authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
 - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
 - In cases where the Licensing Authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 32.6 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The Licensing Authority is aware that some cinemas across the country have agreed schemes whereby the applicable Licensing Authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and very young children to special screenings of that film with only parents of such children in attendance.
- 32.7 It is recommended that any premises considering the provision of such screenings contacts the Licensing Authority to discuss the proposals firstly. The authority will typically expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.
- 32.8 When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, it is proposed that the authority will adhere to the BBFC's Classification Guidelines (www.bbfc.co.uk), and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 32.9 In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the Licensing Authority.
- 32.10 Where the Licensing Authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Issues will be assessed on a film-by-film basis, but it is anticipated that scenes of strong violence and gore, sex and strong threat will lead to greater concern around viewing by children of that age than

strong language, mild nudity and discriminatory content will.

32.11 Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

32.12 There are some exemptions applicable to the showing of films in community premises which are outlined in the guidance 16.22-16.24.

33. Licensing Policy Decisions

33.1 The Council recognises that its duties under the Act are concerned with the promotion of the Licensing Objectives and all policy decisions will therefore relate to the Licensing objectives. In addition, in the case of terms and conditions attached to various permissions, the Council will focus on matters that are within the control of individual licensees. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. The Council will not adopt quotas that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas.

33.2 The Council will principally focus on the direct 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.

34. Licensing Hours

34.1 Licensing hours should not inhibit the development of a thriving safe night-time local economy which is important for investment and employment locally and attractive to domestic and international tourists. We will expect applicants to consider whether conditions are necessary for applications in areas which have denser residential accommodation.

34.2 We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.

34.3 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.

34.4 We will normally expect to grant shops, stores and supermarkets with permission to provide sales of alcohol for consumption off the premises

at any time when the premises is open, unless there are good reasons for restricting those hours. It may be appropriate for us to restrict the sale of alcohol where we have received representations about crime and disorder issues, e.g. street drinkers.

- 34.5 We recognise that flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. Unreasonable, repetitive, frivolous and vexatious representations will be disregarded. Representations from competitors that suggest restriction on hours because further facilities for the sale of alcohol are not “needed” will be disregarded.
- 34.6 The Council operates an out of hour’s noise service based on the assessment of need. The nature and number of complaints are recorded and may be used when compiling reports for our licensing committee and sub committees.
- 34.7 Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place.

35 Variations

- 35.1 The Council recognises that where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to vary to be made rather than requiring an application for a new premises licence.

36. Cumulative Effect

- 36.1 We will not take ‘need’ into account when considering an application.
- 36.2 We do not currently have any cumulative impact zones in the district. However, we recognise that the cumulative impact of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder outside and some distance from the premises. Responsible authorities or members of the public can make representations that an area has become saturated with premises making it a focal point for groups of people to gather creating exceptional problems of disorder and nuisance beyond the impact from the individual premises. In those circumstances we would consider whether there is evidence to support the implementation of a cumulative impact zone.
- 36.3 Other mechanisms are available to deal with cumulative effect. For example:
- Planning controls
 - Partnership working with the Police the Trade and others to create effective dispersal strategies such as CCTV surveillance,

ample taxi ranks, public conveniences, street cleaning and litter patrols

- Police enforcement concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
- The prosecution of personal licence holders or members of staff who sell alcohol to people who are drunk
- Public Space Protection orders where alcohol consumption can be restricted if necessary to prevent disorder [PSPO]
- Police powers to close for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premise causing nuisance
- the power of the police, other responsible authority or a member of the public to seek a review of the licence in question

36.4 The Council recognises that where the number, type and density of premises selling alcohol is unusual, as can occur in some town centres, problems of nuisance and disorder can occur either outside or some distance from the licensed premises. The Council has therefore introduced a Public Space Protection Order (PSPO) where alcohol consumption can be restricted if necessary to prevent disorder the extent of this order can be viewed at www.welhat.gov.uk/alcohol. Where this authority occupies or manages premises, or premises are managed on its behalf, and it licences that place for alcohol sales the PSPO will not apply when the licence is being used for alcohol sales (or 30 minutes after) but the place will be subject to the PSPO at all other times. This allows this authority to promote community events whilst still using PSPOs to tackle the problems of anti-social drinking. Information on any current PSPOs in the borough can be found on our website.

<https://www.welhat.gov.uk/site-search/results/#?cludoquery=PSPO&cludopage=1&cludorefurl=https%3A%2F%2Fwww.welhat.gov.uk%2F&cludorefpt=Welwyn%20Hatfield%20Borough%20Council%20Homepage%20%E2%80%93%20Welwyn%20Hatfield%20Borough%20Council&cludoinputtype=standard>

37. Early Morning Restriction Orders (EMRO)

37.1 The power for licensing authorities to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions came into force on 31st October 2012.

37.2 Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.¹

37.3 Guidance² has been introduced in relation to:

¹ <http://www.legislation.gov.uk/ukxi/2012/2551/made/data.pdf>

- the EMRO process
 - the evidence base
 - introducing an EMRO
 - advertising an EMRO
 - dealing with representations
 - hearings
 - implementation
 - limitations
 - enforcement
- 37.4 Currently we are not introducing an early morning restriction order, however, in the future we may consider a restriction order and therefore we have set out some details. The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. We must be satisfied that such an order would be appropriate to promote the licensing objectives.
- 37.5 The only exemptions relating to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. Neither will it apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2002 Act. The decision to implement an EMRO should be evidence based and we may wish to outline the grounds which we will take into consideration when considering implementation of an EMRO. This should include consideration of the potential burden imposed as well as the potential benefits.
- 37.6 We may wish to amend references to hearings in our policy to reflect any procedural changes outlined in regulations. We may also wish to include a map or maps of proposed EMRO areas. The function of making, varying or revoking an EMRO is specifically excluded from the delegation of functions and may not be delegated to the Licensing Committee but is exercised by Full Council.

38. Late Night Levy

- 38.1 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.
- 38.2 Currently we are not introducing a late night levy, however, in the future we may consider a levy and therefore we have set out some details about late night levies.

² <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/>

- 38.3 There are also Regulations in force setting out the way in which the levy must be applied; the way it will be administered, as well as arrangements for expenses, exemptions and reductions. There is also Guidance which sets out:
- implementing the levy and the consultation process
 - the design of the levy
 - exemptions from the levy
 - reductions in levy charges
 - how revenue raised from the levy may be spent
 - the levy charges
 - the levy collection process
- 38.4 We will have discretion as to whether we exempt certain premises but these can only be the types of premises set out in paragraphs 1.23 to 1.33 of the Guidance on the Late Night Levy. We also have discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes [Guidance on the Late Night Levy, paragraphs 1.34 to 1.38].
- 38.5 Any revenue from the levy must be split between us, as the licensing authority, and the Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. The Late Night Levy Guidance suggests at paragraph 1.40 that we may wish to use existing partnership arrangements with the Police to ensure that the police intentions for the share of the levy revenue paid to them are genuine.
- 38.6 These new powers enable us to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a 'local' power that we can choose whether or not to exercise. Any decision to introduce, vary or cease the requirement for a levy has to be made by the full council. Other decisions in relation to how the levy is administered may be subject to delegation.
- 38.7 We do not anticipate introducing a late night levy at present.

39. General Enforcement Statement

- 39.1 All decisions and enforcement action taken by us will have regard to the relevant provisions of the Licensing Act 2003, s182 Guidance, the enforcement policy of the Council and to the Regulators Compliance Code.
- 39.2 We will establish and maintain both proactive and reactive enforcement protocols with the local police and other enforcement agencies. Protocols will provide for the proportionate targeting of agreed problem and high-risk licensed activities needing greater attention and a corresponding lighter touch for well run, lower risk premises in the area.

- 39.3 We believe that proportionate but vigorous enforcement will be a key element in ensuring a successful licensing regime and that the four licensing objectives are met. We intend to use our powers under the Licensing Act 2003 and other relevant legislation to ensure a proper balance is struck between the interests of the licensed trade and of the wider community.
- 39.4 Officers will inspect new premises where possible to secure compliance with the Licensing objectives and this policy. Further inspections of premises will be undertaken targeting poorly managed premises that fail to satisfactorily meet the Licensing objectives.
- 39.5 We will use a proportionate form of response to resolve issues of non-compliance, including an action plan, although we recognise that in serious cases a prosecution or a review application will be the appropriate action.
- 39.6 To ensure that resources are effectively targeted at high-risk premises, the Council will seek to work closely with the Police to share information about licensees and licensed premises to fulfil duties held by both parties under the Crime and Disorder Act 1998.
- 39.7 All enforcement action undertaken by the Council will be in accordance with the relevant Council Enforcement Policy and copies will be made available on request and are available on our website. This Enforcement Policy is based on the Regulators Code from central government.
- 39.8 In addition, the Council recognises that the Police are given their own powers in relation to enforcement under the Act.
- 39.9 It is also incumbent for operators of licensed premises to provide appropriate training for their staff to ensure the promotion of the licensing objectives.

40. Copyright

- 40.1 Licenses may be required for the use of copyright works, such as music and screening licenses for: a performance of live music; any playing of recorded music; and an exhibition of a film. The provision of the entertainment would then be compliant with the Copyright, Designs and Patents Act 1988.

41. Children

- 41.1 The body which Welwyn Hatfield Council recognises as being competent to advise on matters relating to the protection of children from harm is the Hertfordshire County Council, Local Safeguarding Children's Board and they are listed as a responsible authority in Appendix B.
- 41.2 The Council will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or

psychological harm. In all other cases it will be left to the discretion of the premises licence holder, club certificate holder or other relevant person where no conditions or restrictions are imposed. Conditions requiring the admission of children to any premises cannot be attached to licences or certificates.

- 41.3 The areas that will give rise to particular concern in respect of children are listed below.
- Where entertainment or services of an adult or sexual nature are commonly provided.
 - Where there have been convictions of members of 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); and
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

This list is not exhaustive.

- 41.4 Each application will be considered on its own merits. Where there are matters that give rise to serious concerns and suitable conditions cannot address those concerns we will consider refusing an application. Venue operators seeking premises licences and club premises certificates should consider including such prohibitions and restrictions in their operating schedules particularly where their own risk assessments have determined that the presence of children is undesirable or inappropriate.

- 41.5 The range of alternatives which may be considered for limiting the access of children where that is necessary for the prevention of harm for children can be adopted in combination, and include
- Limitations on the hours when children may be present;
 - Limitations excluding the presence of children under certain ages when particular specified activities are taking place;
 - Limitations on the parts of premises to which children might be given access;
 - Age limitations (below 18)
 - Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - Full exclusion of those people under 18 from the premises where any licensable activities are taking place.

- 41.6 The council will take advice from a body competent to recognise the dangers of harm to children, namely the Hertfordshire Local Safeguarding Children Board. The Council will maintain close contact with the police, young offenders' teams and trading standard officers

about the extent of unlawful sales and consumption of alcohol by minors and are involved in the development of any strategies to control or prevent these unlawful activities and pursue prosecutions.

- 41.7 It is unlawful for children under 18 to attempt to buy alcohol, just as it is unlawful to sell or supply alcohol to them. The mandatory conditions require all premises selling or supplying alcohol to have an age verification scheme in place.
- 41.8 Acceptable forms of Proof of Age are:
- Photo Driving Licence
 - Passport
 - Proof of Age Standards Scheme (PASS)
- 41.9 Where a premises is used for film exhibitions, we will expect the premises to restrict access in line with any certificate granted by the British Board of Film Classification or the Council itself.
- 41.10 In recent years, incidents of child sexual exploitation (CSE) taking place in licensed premises have been of particular concern across the country. Whilst there has been no specific intelligence suggesting incidents have taken place in Welwyn Hatfield, the Council will work via existing partnerships, including the licensed trade, to ensure that any concerns in relation to CSE can be tackled and addressed appropriately

42. Requests for a review of licences

- 42.1 The Council recognises that at any time after a Premises Licence or Club Premises Certificate has been issued, a responsible authority, such as the Police or Fire Authority, or any other person, may ask the Council to review the licence of a premises because of problems arising in connection with any of the four Licensing objectives.
- 42.2 Responsible authorities will aim to give licensees early warning of any concerns identified at premises. The Council will accept requests for a review of a licence unless delegated officers deem them to be frivolous, vexatious or repetitious. In the case of requests which are deemed frivolous, vexatious or repetitious, the Council will notify the person making representations of the reason behind the Council's decision and inform them that the Council intends to take no further action.
- 42.3 The Council will set up a scheme of delegation to allow the Executive Director to authorise the Licensing Manager to decide if a request for a review of a licence is valid. The authority's role 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.
- 42.4 In general, the Council will treat representations as repetitious if no more than 12 months have elapsed since an identical or substantially similar representations has been made, although in exceptional and compelling circumstances a shorter period may be deemed acceptable.

The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises licence within a twelve month period. Other instances where a representation may be considered repetitious are at 11.12 of the section 182 guidance to the licensing act.

- 42.5 If a request for review is justified, the Council will advise the holder of the Premises Licence or Club Premises Certificate concerned that a request has been accepted and the Council will provide them with the details pertaining to the nature of the request, including any supporting evidence, in order that they may be fully aware of the allegations made. The Council will then arrange a meeting of the Licensing Sub Committee, who will review the Premises Licence or Club Premises Certificate.
- 42.6 Where premises are found to be trading irresponsibly, the licensing authority will not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.
- 42.7 In cases when the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence, even in the first instance, will be seriously considered.
- 42.8 We would recommend that any one applying for a review to consider Chapter 11 of the section 182 guidance to the Licensing Act 2003.
- 42.9 Reviews following a closure order or an illegal working compliance order are subject to certain timescales as set out in the legislation. A closure order comes under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 and an illegal working compliance order comes under section 38 and Schedule 6 to the Immigration Act 2016.
- 42.10 Premises that do not operate a responsible policy or operate due diligence with regard to the sale of alcohol to children and persistent sales of alcohol have occurred, a review will normally take place and if appropriate the licence will be revoked. However the section 182 guidance at 11.29 which refers to a proportionate approach rather than being too specific will be observed.

43. Summary reviews

- 43.1 In addition the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder, or the police have made an application for summary review on the basis that the premises are associated with serious crime and/or disorder. Summary reviews were introduced into the Licensing Act by the Violent Crime Reduction Act. Details are available in section 12 of the guidance issued under section 182 of the Licensing Act.
- 43.2 The licensing authority is aware that they must hold and determine a full review of the premises licence after receipt of a police chief's

application for a summary review. The hearing must take place within 28 days of the application and there can be no adjournment of the hearing or delay in reaching a determination. The hearing will take place even if the Chief Officer of the police asks to withdraw their application or representations.

- 43.3 The licensing authority's determination does not have effect until the end of the 21 day period given for appealing the decision, or until the dispersal of any appeal that is lodged. To ensure that there are appropriate and proportionate safeguards in place at all times, the Licensing Authority will review any Interim Steps that it has taken that are in place on the date of the hearing of the final review, and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn. The review of the interim steps will take place immediately after the determination of the review has been reached and in making its decision the licensing authority will consider any relevant representations made.
- 43.4 A summary review flowchart is available under section 12 of the Guidance issued under section 182 of the Licensing Act 2003 (last modified December 2023). In addition non statutory guidance issued by the Home Office can be found at <https://www.gov.uk/government/publications/section-53a-licensing-act-2003-summary-review-guidance>

44. Conduct of hearings

- 44.1 The Council will ensure that meetings of the Licensing Sub Committee are conducted in accordance with any rules prescribed by the Secretary of State and in accordance with the rules of natural justice and with respect for the human rights of individuals present.
- 44.2 Meetings will be conducted in accordance with appropriate Council procedures and the Local Authorities (Model Code of Conduct) Order 2007. Local Councillors can make representations in writing and at a hearing on behalf of residents or local businesses if specifically requested to do so. They can also make representations in their own right. The Council will ensure that a legal advisor is available to advise the Licensing Sub Committee on points of law relevant to the matters under consideration.
- 44.3 The Licensing Sub Committee will relate all decisions made, to the Councils duty to promote the Licensing objectives. Minutes of the Licensing Committee and Licensing Sub Committee will be recorded and made available upon request.

45. Appeals against decisions

- 45.1 The Council recognises that subject to the requirements of the Act, a person may appeal against a decision of the Council to the Magistrates Court. Entitlements to appeal for parties aggrieved by decisions of the

Licensing Act are set out in schedule 5 to the Act.

45.2 All parties who were party to the original hearing but not involved directly in the appeal will be provided with clear reasons for any subsequent decisions where appeals are settled out of court.

46. **Failure to pay annual fees –licence suspension**

46.1 The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to allow us to suspend licences and certificates. We must suspend premises licences or club premises certificates when the annual fee is not paid.

46.2 Where an annual fee is not paid we will write to tell you that you have a period of 21 days from the date the fee became due to pay the outstanding fees. The period of 21 days exists to allow for resolution due to a dispute, or as a result of an error. After this period the licence or certificate will be suspended. We will not send any further warning letters.

46.3 We will write to the licence holder advising you of the suspension and tell you the date on which the suspension will take effect. This will be 2 days after the day the notice is given.

46.4 We will notify Hertfordshire Constabulary and the relevant responsible authorities as defined under the Act.

46.5 The lifting of a suspension will only take place from the day on which we receive the payment of the outstanding fee/fees. In all instances, we shall confirm that the suspension has been lifted in writing the following working day after the payment has been received. Notification will also be provided to Hertfordshire Constabulary, and the relevant responsible authorities as notified at the time the suspension notice was given.

46.6 The quickest way to reinstate a licence would be to pay by BACS,

- Account No. 41020900
- Sort Code 40-46-08
- Ref: Licensing
- Payee Welwyn Hatfield Council
- Amount paid

Then email licensing@welhat.gov.uk to confirm payment. There are other methods of payment as described on the council website.

46.7 **Please note it is a criminal offence under section 136 of the Licensing Act 2003 to carry out or attempt to carry out licensable activities without a permission i.e. once your premises licence or club premises certificate are suspended.**

47. **Data Control**

- 47.1 The Council will respect the principles of good data protection in executing this Policy and its duties under the Act. Where appropriate, documents issued by the Council will be in the prescribed format. The Council reserves the right to reject any document furnished by any person in connection with this Act on the grounds that it is illegible or in a form unsuitable for processing by Council equipment. Additionally, in the case of photographs, drawings and plans, the Council reserves the right to reject these items on the grounds they are of an inappropriate scale, unclear or insufficiently detailed.

Appendix A. List of persons to be consulted on revision of this policy

Person(s) from whom comments will be invited
The responsible authorities designated under the Licensing Act 2003
All persons recorded on the Environmental Health database as holding a Premises licence or a premises operating with a premise licence, Late Night Refreshment Licence including some personal licence holders.
All persons recorded on the Environmental Health database as being issued with a club registration certificate or premise operating with a club premises licence.
The chairs of the Chambers of Commerce
Chairs of the Residents' Associations
Members of the Welwyn Hatfield Council Community Panel
Welwyn Hatfield Borough Council Councillors
The Parish and Town Councils
Neighbouring local authorities
Hertfordshire County Council
WHBC Planning Policy Unit , Estates Community Safety Unit Environmental Health Teams Law and Admin Service
Local solicitors and those involved with applications in the Welwyn Hatfield Borough.
The Health and Safety Executive
British Transport Police
Local Tourist Office
Spectrum Drug and Alcohol Services
Musicians' Union and Equity
Federation of Small Businesses
Licensed Victuallers Association
Safety Advisory Group
The BID

Appendix B – List of Responsible Authorities and contact details

Social Services

Contact:

Address: Relevant Authority Licensing Act
Room 127
Local Safeguarding Children's Board
County Hall
Pegs Lane
Hertford
SG13 8DF

Tel. 01992 555077

Email admin.hscp@hertfordshire.gov.uk

Weights and Measures Authority

Contact: Chief Trading Standards Officer

Address: Hertfordshire Trading Standards
45 Grosvenor Road
St Albans
Herts.
AL1 3AW

Tel: 01727 813849

Email: hcc.tradstad@hertfordshire.gov.uk

Police

Contact: Police Licensing Officer

Address: Licensing Department
Hatfield Police Station
Comet Way
Hatfield
Herts.
AL10 9SJ

Tel. 01707 806492

Environmental Health

Contact: Environmental Health Manager

Address: Environmental Health
Welwyn Hatfield Council
The Council Offices
The Campus
Welwyn Garden City
Herts.
AL8 6AE

Tel. 01707 357242

Email: e.health@welhat.gov.uk

Web: www.welhat.gov.uk

Planning

Contact:
Address: Planning
Welwyn Hatfield Council
The Council Offices
The Campus
Welwyn Garden City
Herts.
AL8 6AE
Tel. 01707 357000
Email. planning@welhat.gov.uk
Web: www.welhat.gov.uk

Fire

Contact: Fire Protection manager
Address: Fire Protection Hertfordshire Fire and Rescue Service

Mundells – MU103
Welwyn Garden City
Hertfordshire
AL7 1 FT
Telephone: 01707 292310
Email: administration.cfs@hertfordshire.gov.uk
Web: www.hertsdirect.org.uk

Health and Safety Executive

Contact: Woodlands
Address: Manton Lane
Manton Industrial Estate
Bedford
Bedfordshire
MK41 7LW
Tel: 08701 545500
Web: www.hse.gov.uk

Health Authority

Contact: Licensing Applications
Address: Public Health (postal point SFAR232)
Farnham House
Six Hills Way
Stevenage Herts.
SG21 2FQ
Tel. Email. Publichealth@hertfordshire.gov.uk

Home Office Immigration Enforcement Address Alcohol Licensing
Team Lunar House

40Wellesley Road
Croydon
CR9 2BY
Email Alcohol@homeoffice.gsi.gov.uk

Appendix C. Delegated Decision making arrangements

These are also set out for the Licensing Committee and Licensing Sub-Committee in Part 3a of the Welwyn Hatfield Borough Council’s Constitution and for delegated authority to Directors in Part 3i of Welwyn Hatfield Borough Council’s constitution.

Matter under consideration	Sub Committee	
		Executive Director and other officers to whom this is delegated
Application for a personal licence	If Police or immigration enforcement objection made	If no representation made
Application for a personal licence with unspent convictions	If Police Objection is made	If no representation is made
Application for premises licence	If relevant representation made	If no representation made
Application for club premises certificate	If relevant representation made	If no representation made
Application for provisional statement	If relevant representation made	If no representation made
Application to vary premises licence/club certificate	If relevant representation made	If no representation made
Application to vary designated personal licence holder	If a police representation	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police representation	All other cases
Applications for interim authorities	If police representations	All other cases
Application to review premises licence	All cases	
Application to review club premises certificate	All cases	
Decision on whether a request for review is irrelevant, frivolous or vexatious		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a representation to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor		All cases

variation application		
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Appendix D:

List of Welwyn Hatfield Borough Council premises holding licences under the Licensing Act 2003

Hatfield	Town Centre and White Lion Square	Supply of alcohol. Provision of regulated entertainment – plays, live music, recorded music, performances of dance and anything of a similar description.
WGC	Campus West	Supply of alcohol, Provision of regulated entertainment – plays, live music, recorded music, performances of dance and anything of a similar description. Films, Plays and late night refreshment.

Glossary

Appeals	Entitlement to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the Act.
Act (The)	The Licensing Act 2003.
BBFC	British Board of Films Censors.
Club Premises	Premises which are occupied by and habitually used for the purposes of a club.
Cumulative Impact	The effect of a number of premises selling alcohol causing problems of nuisance and disorder when the capacities of these premises are taken together.
Counter Notice	Where an objection is given in respect of a TEN the relevant Licensing Authority must hold a hearing and give the premises user a counter notice if it considers it necessary for the promotion of the crime prevention objective.
Council (The)	Welwyn Hatfield Borough Council.
DCMS	Department of Culture Media and Sport.
Determine	Decide upon.
Designated Premises Supervisor	The individual for the time being specified in that licence as the premises supervisor.
Enforcement Concordat	Code of Enforcement based on the principles of explanation, resolving problems and rights of appeal.
Frivolous	Not serious, shallow or superficial.
Health and Safety Legislation	Health and Safety at Work etc Act 1974.
any other person	Local resident, resident association, local business or trade association or body representing the above, or local councillors.
Local Culture Partnership	Developed a strategy to improve culture opportunities in the Borough.

Licensed Premises	A premises in respect of which a premises licence has effect.
Licensing Committee	Established by the Licensing Authority and consisting of at least ten but no more than fifteen members of the Authority.
Licensing Sub Committee	A Licensing Committee may establish one or more sub committee consisting of three Members of the Committee.
LNR / Late Night Refreshment	The supply of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, between the hours of 23:00hrs and 05:00hrs.
Licensable Activity	Sale by retail of alcohol. Supply of alcohol by or on behalf of a club, or to the order of a member. Provision of Regulated Entertainment Provision of Late Night Refreshment
Model conditions	A pool of conditions from which, only those that are appropriate and proportional to the individual premises and the immediate vicinity may be drawn.
Notice	A writing communicating information or warning.
Objection Notice	Where a Chief Officer of Police is satisfied that allowing the premises to be used in accordance with a Temporary Event Notice would undermine the crime prevention objective, he must give an objection notice stating the reasons why.
Permitted Temporary Activity	A Licensable Activity is a permitted temporary activity if it is carried on in accordance with a Temporary Event Notice, provided the acknowledgement of notice and notification of police are met, the Temporary Event Notice is not withdrawn and no Counter Notice is given.
Person	Includes a business or partnership with regard to premises application.
Premises Licence	A Licence granted under the 'Act' in respect of any premises which authorises the premises to be used for one or more Licensable activities.

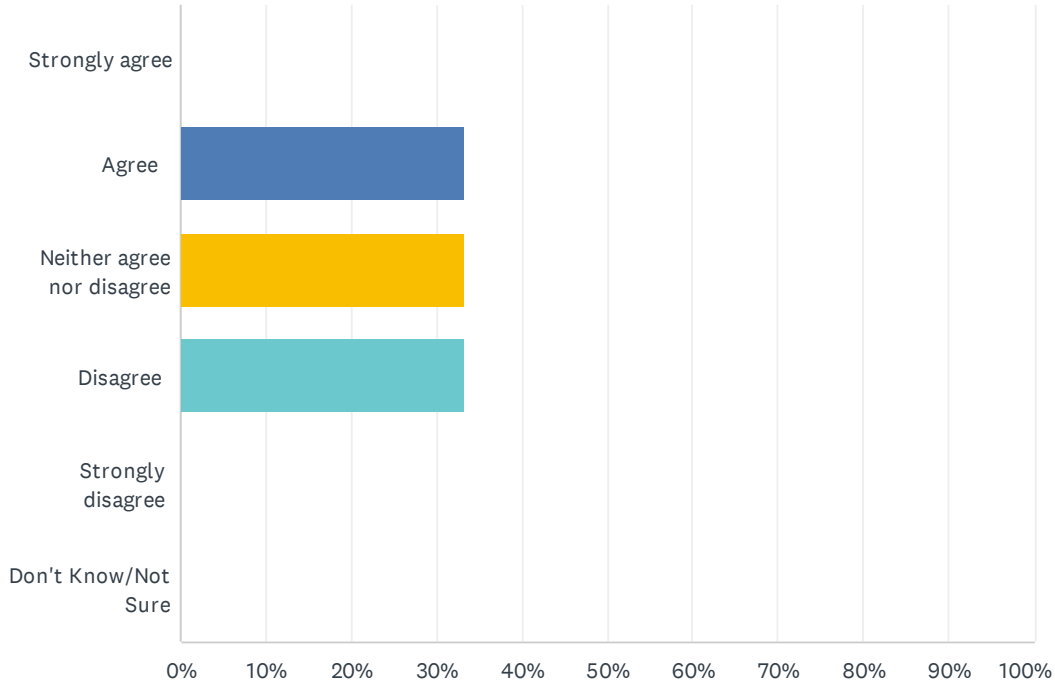
Prescribed	Prescribed by regulations.
Personal Licence	A Licence granted by a Licensing Authority to an individual and authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a Premises Licence.
Premises	Includes any place, vehicle, vessel or moveable structure.
Regulations	Those made by the Secretary of State.
Regulated Entertainment	Entertainment provided to any extent for members of the public or a section of the public or exclusively for members of a club, which is a qualifying club in relation to the provision or regulated entertainment, or for members of such a club and their guests.
Responsible Authorities	Are the organisations listed in Appendix B..
Representations	A statement of objection or support in respect of an application.
Repetitious	In response to a review application, repetition of a representation made on an application for a licence or review without a reasonable interval having elapsed.
Resident	Permanent inhabitant in the Borough.
Review	A Responsible Authority or any other person may ask the Licensing authority to review a Licence because of problems arising at the premises in connection with any of the four Licensing Objectives.
Relevant Licensing Authority	Generally the Licensing Authority in whose area the premises are situated (but separate definitions in parts 3, 4, 5 and 6 of the Act.
R18	A film classification by the BBFC or the Local Authority as only for viewing by persons aged 18 years or over who are members of a properly constituted club or their guests who are aged 18 or over.

Statutory Guidance	Guidance issued by the Secretary of State to the Licensing Authorities on the discharge of their functions.
Scheme of Delegation	Systematic arrangement for authorising subordinates to make certain decisions.
Statutory Instruments	As well as Acts of Parliament UK law is made through Statutory Instruments (SI's) (also referred to as delegated or secondary legislation). These are laws written by a Government Minister, exercising legislative powers delegated to him or her by an Act of Parliament. Some require approval by Parliament.
Temporary Event Notice (TEN)	A notice of proposal to use premises for one or more Licensable Activities during a period not exceeding 96 hours given to the Relevant Licensing Authority.
Vexatious	Lacking sufficient grounds for action and seeking only to annoy the defendant.
Vicinity of premises	"In the vicinity of" the Licensed Premises – geographically within the neighbourhood of the premises. This is ultimately a matter of fact to be decided by the licensing authority in each individual case.
Zoning	Fixed trading hours within a designated area.

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Q1 Overall, to what extent do you agree or disagree with our updated policy?

Answered: 3 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	0.00%	0
Agree	33.33%	1
Neither agree nor disagree	33.33%	1
Disagree	33.33%	1
Strongly disagree	0.00%	0
Don't Know/Not Sure	0.00%	0
TOTAL		3

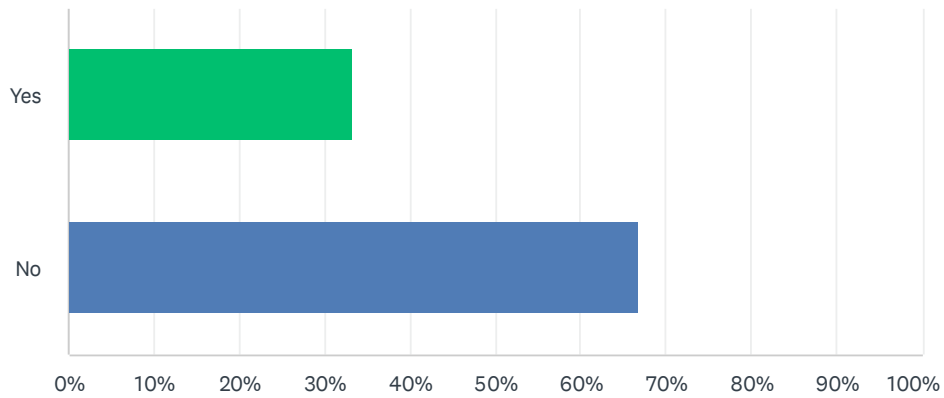
Q2 Please give a reason for your answer:

Answered: 3 Skipped: 0

#	RESPONSES	DATE
1	North Mymms Parish Council (NMPC) disagree with the proposal to increase the number of Temporary Event Licences (TENS) particularly as this does not take account of rural locations/events on fields in the countryside.	4/3/2024 12:08 PM
2	todo	4/2/2024 12:42 PM
3	I don't feel we have any control over government policies	3/11/2024 11:39 AM

Q3 Do you have any specific comments in relation to the policy?

Answered: 3 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	33.33%	1
No	66.67%	2
TOTAL		3

Q4 Please outline your specific comments below:

Answered: 2 Skipped: 1

#	RESPONSES	DATE
1	NMPC object to 25.4 in the policy document. No event should be allowed to occur without local consultation as well as the police and LPA in order to meet all four points of the Licensing Objectives.	4/3/2024 12:08 PM
2	None	3/11/2024 11:39 AM

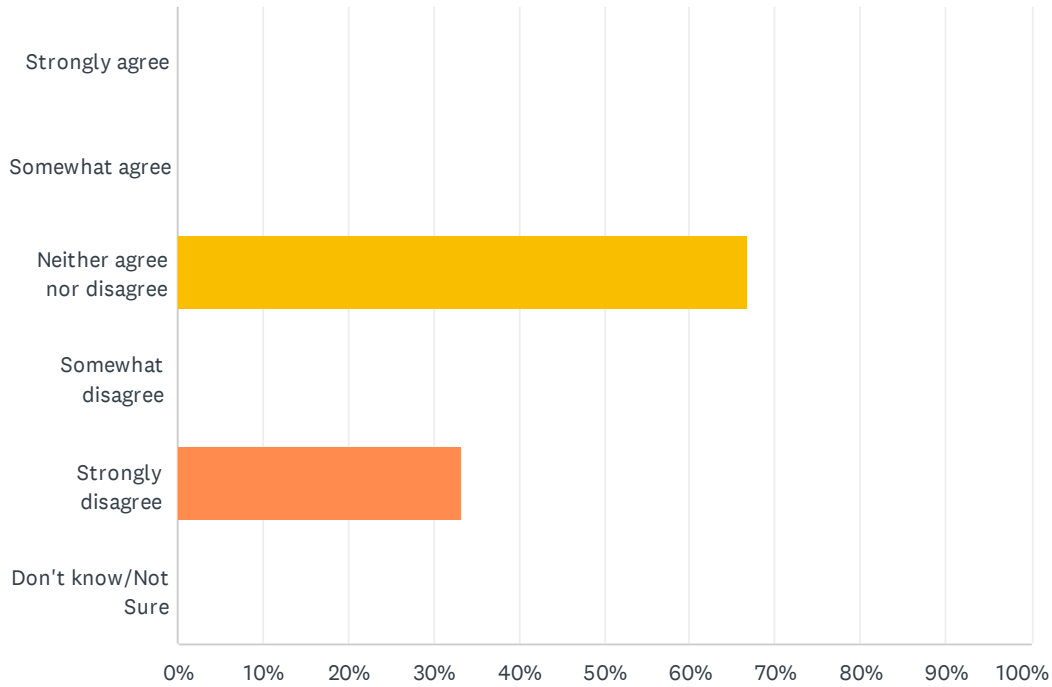
Q5 Do you have any other comments on actions that the council should consider in relation to it's licensing policy?

Answered: 2 Skipped: 1

#	RESPONSES	DATE
1	<p>NMPC consider it is vitally important that the local community is consulted early in any application particularly outside events in rural location especially around villages. Events have been taking place in open fields with no noise attenuation, in locations where public transport is unavailable leading to unrestricted parking causing obstruction on roads & no pedestrian footpaths. This also increases the likelihood of driving under the influence after the event closes. All of these effect the local community directly who should be given consideration in a timely manner. Parish Councils should be given more information about applications in advance of a decision/event in order to consult and advise with the LPA & police for any and all events.</p>	4/3/2024 12:08 PM
2	No	3/11/2024 11:39 AM

Q6 To what extent do you agree that Welwyn Hatfield Borough Council is effectively enforcing the legislation in relation to the licensing policy?

Answered: 3 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	0.00%	0
Somewhat agree	0.00%	0
Neither agree nor disagree	66.67%	2
Somewhat disagree	0.00%	0
Strongly disagree	33.33%	1
Don't know/Not Sure	0.00%	0
TOTAL		3

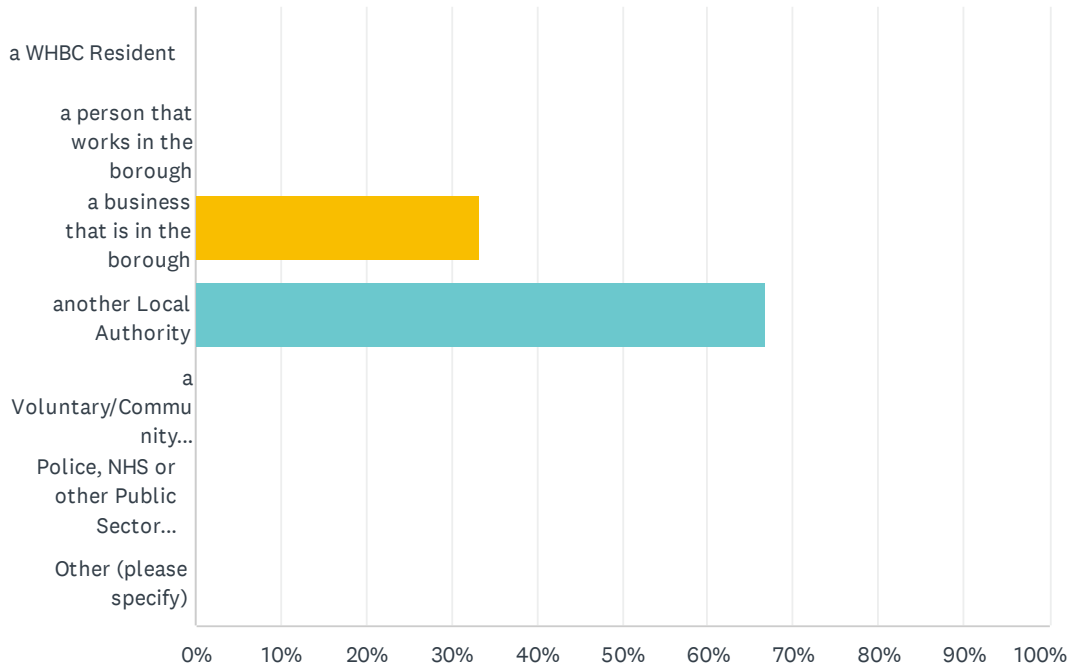
Q7 Please give reasons for your answer to Q6

Answered: 2 Skipped: 1

#	RESPONSES	DATE
1	NMPC feel that there is an inadequate amount of information provided in advance of large open air events. Other application have to apply for planning permission giving plenty of appropriate information of events and structures that are going to be utilised e.g.toilet facilities and waste/rubbish disposal should be factored in to all applications.	4/3/2024 12:08 PM
2	No experience of licensing enforcement	3/11/2024 11:39 AM

Q8 to help us better understand your responses, please tell us in what capacity you are responding. Are you responding as:

Answered: 3 Skipped: 0

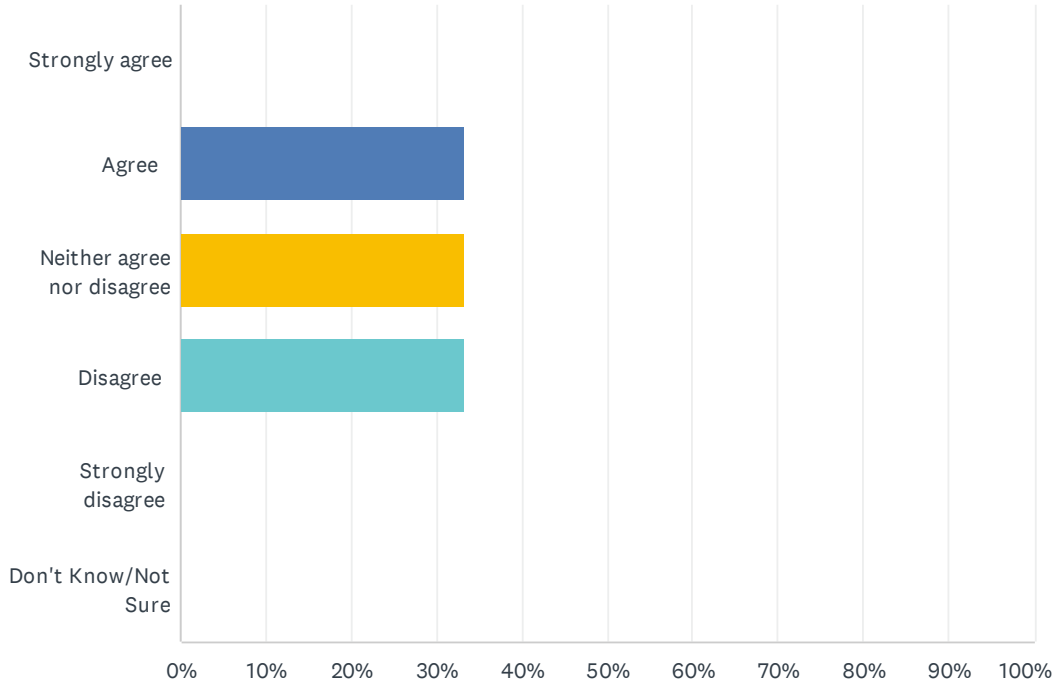


ANSWER CHOICES	RESPONSES	
a WHBC Resident	0.00%	0
a person that works in the borough	0.00%	0
a business that is in the borough	33.33%	1
another Local Authority	66.67%	2
a Voluntary/Community Organisation	0.00%	0
Police, NHS or other Public Sector Organisation	0.00%	0
Other (please specify)	0.00%	0
TOTAL		3

#	OTHER (PLEASE SPECIFY)	DATE
	There are no responses.	

Q1 Overall, to what extent do you agree or disagree with our updated policy?

Answered: 3 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	0.00%	0
Agree	33.33%	1
Neither agree nor disagree	33.33%	1
Disagree	33.33%	1
Strongly disagree	0.00%	0
Don't Know/Not Sure	0.00%	0
TOTAL		3

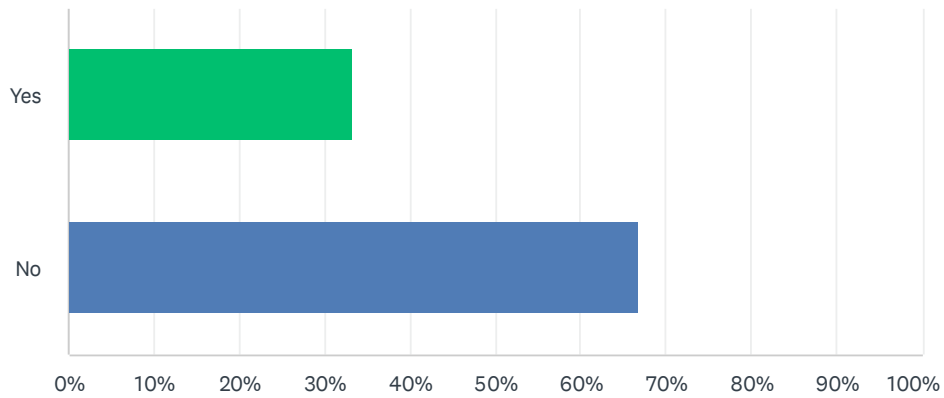
Q2 Please give a reason for your answer:

Answered: 3 Skipped: 0

#	RESPONSES	DATE
1	North Mymms Parish Council (NMPC) disagree with the proposal to increase the number of Temporary Event Licences (TENS) particularly as this does not take account of rural locations/events on fields in the countryside.	4/3/2024 12:08 PM
2	todo	4/2/2024 12:42 PM
3	I don't feel we have any control over government policies	3/11/2024 11:39 AM

Q3 Do you have any specific comments in relation to the policy?

Answered: 3 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	33.33%	1
No	66.67%	2
TOTAL		3

Q4 Please outline your specific comments below:

Answered: 2 Skipped: 1

#	RESPONSES	DATE
1	NMPC object to 25.4 in the policy document. No event should be allowed to occur without local consultation as well as the police and LPA in order to meet all four points of the Licensing Objectives.	4/3/2024 12:08 PM
2	None	3/11/2024 11:39 AM

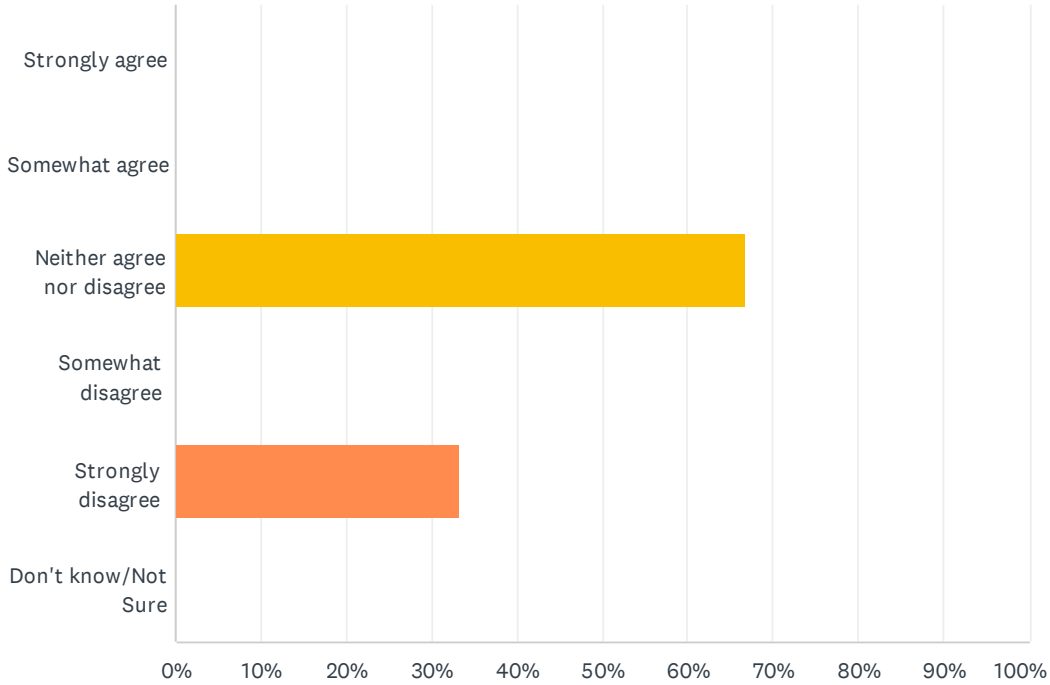
Q5 Do you have any other comments on actions that the council should consider in relation to it's licensing policy?

Answered: 2 Skipped: 1

#	RESPONSES	DATE
1	<p>NMPC consider it is vitally important that the local community is consulted early in any application particularly outside events in rural location especially around villages. Events have been taking place in open fields with no noise attenuation, in locations where public transport is unavailable leading to unrestricted parking causing obstruction on roads & no pedestrian footpaths. This also increases the likelihood of driving under the influence after the event closes. All of these effect the local community directly who should be given consideration in a timely manner. Parish Councils should be given more information about applications in advance of a decision/event in order to consult and advise with the LPA & police for any and all events.</p>	4/3/2024 12:08 PM
2	No	3/11/2024 11:39 AM

Q6 To what extent do you agree that Welwyn Hatfield Borough Council is effectively enforcing the legislation in relation to the licensing policy?

Answered: 3 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	0.00%	0
Somewhat agree	0.00%	0
Neither agree nor disagree	66.67%	2
Somewhat disagree	0.00%	0
Strongly disagree	33.33%	1
Don't know/Not Sure	0.00%	0
TOTAL		3

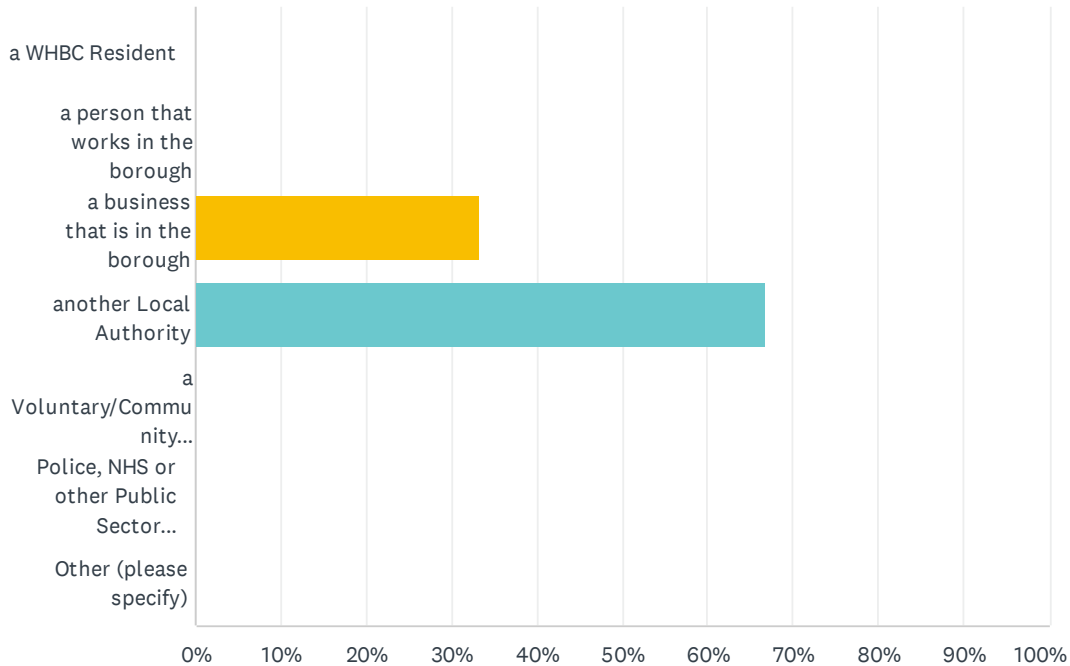
Q7 Please give reasons for your answer to Q6

Answered: 2 Skipped: 1

#	RESPONSES	DATE
1	NMPC feel that there is an inadequate amount of information provided in advance of large open air events. Other application have to apply for planning permission giving plenty of appropriate information of events and structures that are going to be utilised e.g.toilet facilities and waste/rubbish disposal should be factored in to all applications.	4/3/2024 12:08 PM
2	No experience of licensing enforcement	3/11/2024 11:39 AM

Q8 to help us better understand your responses, please tell us in what capacity you are responding. Are you responding as:

Answered: 3 Skipped: 0



ANSWER CHOICES	RESPONSES	
a WHBC Resident	0.00%	0
a person that works in the borough	0.00%	0
a business that is in the borough	33.33%	1
another Local Authority	66.67%	2
a Voluntary/Community Organisation	0.00%	0
Police, NHS or other Public Sector Organisation	0.00%	0
Other (please specify)	0.00%	0
TOTAL		3

#	OTHER (PLEASE SPECIFY)	DATE
	There are no responses.	

APPENDIX 3

Responses to the Consultation on the Licensing Policy 2025-2030

Response received from Welwyn Parish Council. Changes requested highlighted in yellow.	Suggested responses for decision by the licensing committee	Accept Y/N
<p>Sections 1 to 2.18 Inclusive We express our support for the updates made to the Licensing Policy Statement by Welwyn Hatfield Borough Council, as outlined between sections 1 and 2.18 inclusive. On the whole, we believe these revisions, which seek to align with recent legislation and incorporate practical guidelines, contribute positively to balancing responsible licensing with the welfare of our community, and we support their implementation.</p>	<p>None</p>	
<p>3. Contact details/ Advice and Guidance We fully support the use of direct links to web-based forms to streamline the Licensing application process, however your use of web links could be improved. Our suggestion for 3.1 for greater clarity would be: <i>Details on making specific applications can be found at our website at: https://www.welhat.gov.uk/homepage/98/application-for-an-alcohol-and-entertainment-licence Application forms can be downloaded and posted, or applications can be made online via https://Gov.UK. Advice can be given before you make your application to resolve potential problems and where possible avoid unnecessary hearings and appeals.</i></p>	<p><u>Current wording 3.1</u> Details on making specific applications can be found at our website www.welhat.gov.uk/licensing. Application forms can be downloaded and posted or applications can be made online via Gov.UK. Advice can be given before you make your application to resolve potential problems and where possible avoid unnecessary hearings and appeals. Links can be added for ease for WHBC although gov.uk will not be there in the near future.</p>	
<p>Sections 4 through section 7.22 Sections 4 through 7.22 predominantly feature minor and factual updates. We</p>	<p>none</p>	

<p>particularly commend the inclusion of initiatives focusing on the 'Prevalence, Prevention, and Reporting of Sexual Harassment and Misconduct, as well as Broader Violence Against Women and Girls Crimes' in section 7.45.</p> <p>We welcome the proposed amendment in Section 7.17 regarding The Environmental Protection Act 1990. This updated section provides greater clarity on the duties and procedures under the Act, especially concerning the investigation of statutory nuisances and the issuing of abatement notices. We support this revision as it offers a more comprehensive and clearer framework for managing issues related to statutory nuisances, such as noise, thereby contributing positively.</p> <p>Similarly, we welcome the enhanced clarity in Section 7.2 concerning the Equality Act 2010, which more precisely outlines responsibilities through the updated Licensing Policy in eliminating discrimination and fostering equality across protected characteristics.</p>		
<p>7. Observations and Concerns Regarding Local Licensing Policy on Drugs and New Psychoactive Substances</p> <p>The recent amendments to our local licensing policy, specifically concerning the management of drugs and new psychoactive substances (NPS) in licensed premises, have raised several concerns that need to be addressed to ensure fairness and practicality in their implementation.</p>	<p>Policy 17.4</p> <p>For the purposes of this part of the Policy, the Licensing Authority will regard new psychoactive substances (widely referred to as 'legal highs') in the same way as it does controlled drugs, and will expect that the measures taken in licensed premises to detect and discourage the use of controlled drugs will also extend to these substances, which generally mimic the effect of a controlled drug.</p>	
<p>Fair Responsibility of Licensees: The policy mandates stringent measures for licensees to prevent the use of controlled drugs and NPS within their premises. While</p>	<p>The policy at 17.0 sets out the expectations regarding controlled</p>	

<p>the intent to create a safe environment is commendable, it places an overwhelming burden on licensees for activities that are not directly within their control. It is concerning that premises could face severe penalties, including the revocation of their license, for the actions of their patrons that, in the case of NPS, may not be illegal. Such a stance seems disproportionate and may lead to unfair penalization of business owners for customer behaviour that is challenging to regulate comprehensively.</p>	<p>drugs on licensed premises. It also references NPS but the CPS requires evidence before any prosecutions against a premises could proceed. Therefore the policy wording at 17.5 does not seem unreasonable.</p> <p>Policy 17.5 The Licensing Authority expects that licensed premises will not engage in, sanction nor condone the sale or supply of new psychoactive substances in or from their premises, and may seek to take enforcement action against premises that are found to be doing so.</p>	
<p>Broad and Ambiguous Scope: The policy's extension to include NPS, treating them akin to controlled drugs, seems problematic given the varying legal status of these substances. This broad categorization risks encompassing a wide range of substances, some of which may not be illegal or harmful. It potentially creates a situation where almost any substance that mimics the effect of a controlled drug could lead to severe consequences for the premises. This catch-all approach could lead to inconsistencies in enforcement and challenges in compliance due to the ambiguous nature of what constitutes an NPS.</p>	<p>The CPS has laid out strict controls for identification of substances which would mitigate any risks from the inclusion in our policy.</p> <p>Section to remain? Section to be reworded?</p> <p>Psychoactive Substances The Crown Prosecution Service (cps.gov.uk)</p>	
<p>Need for Clear Guidelines and Support: To implement this policy effectively and fairly, there is a need for clear, practical guidelines and support for licensees. This includes detailed criteria for identifying NPS, training for staff to manage such situations appropriately, and support from local authorities in cases where there is</p>	<p>As above</p>	

<p>uncertainty. Without this, licensees are left to navigate a complex and potentially unjust situation with significant implications for their businesses.</p> <p>In light of these concerns, we urge a reconsideration of the policy's current framing regarding NPS. It is essential to strike a balance between maintaining public safety and ensuring that licensed premises are not unfairly penalized for customer behaviour that may be beyond their reasonable control. A collaborative approach, where licensees work closely with authorities but are not overly burdened with responsibilities that may be unreasonable or impractical, would be a more effective and equitable solution.</p>		
<p>8. Interface with Planning Controls</p> <p>We approve of the inclusion of Section 8.4 in the policy document, which integrates the 'agent of change' principle from the National Planning Policy Framework. This addition wisely balances the interests of new developments with the operational integrity of existing businesses and community facilities.</p>	None	
<p>18. Observations on the Modern Slavery Policy</p> <p>We fully support the inclusion of modern slavery and child sexual exploitation (CSE) considerations in the licensing policy. The UK Modern Slavery Act 2015 clearly outlines the gravity and breadth of modern slavery offenses, including slavery, servitude, forced labour, and human trafficking. These are serious crimes, and it's commendable that our licensing policy is taking steps to address them, particularly in the hospitality sector, which is identified as a high-risk area.</p> <p>Additionally, the inclusion of CSE in the policy is particularly important. The policy correctly highlights the diverse nature of CSE and the need for licensed premises to be vigilant against potential exploitation. Measures like staff training, written procedures for reporting suspicious behaviour, and monitoring of premises are practical and necessary steps to protect vulnerable individuals, especially children, from harm.</p> <p>In summary, these policy updates reflect a</p>	None	

<p>necessary and ethical stance against modern slavery and CSE. They not only align with national legislation but also contribute significantly to community safety and the well-being of individuals who may be at risk.</p>		
<p>19. Making an application In reference to Section 19 'Making an Application', we not only welcome the practical inclusion of a direct link to the licence application form in Section 19.1, but also strongly endorse the emphasis on proactive engagement with the local community and representative bodies, including Parish Councils, Residents Associations, Businesses and Residents, prior to submitting an application. We believe that this recommended pre-application dialogue fosters a collaborative approach and better informs applicants of the community's perspectives and concerns, which we hope will lead to more considerate and community-aligned licensing applications.</p>	None	
<p>26. Temporary Event Notices (TENSs) We endorse the recent updates to the policy on Temporary Event Notices (TENSs), particularly the removal of the previously specified maximum number of TENSs that could be submitted each calendar year for any premises. This change reflects a more flexible approach to managing small-scale, ad hoc events.</p>	None	
<p>27. Large outdoor events and events attended by over 5,000 persons We support the addition of Section 27.6 on large outdoor events and events over 5,000 attendees. Its emphasis on early engagement with the Council's Licensing Team and the Safety Advisory Group, adherence to the 'Purple Guide', and the necessity for comprehensive planning and noise management plans, represents a thorough and responsible approach to event management. This section effectively balances event organization needs with community safety and compliance.</p>	None	

<p>30. Circuses We support the clarifications provided in Section 30 regarding circuses. Recognizing the specific licensing needs for circuses that sell alcohol or provide late night refreshment and acknowledging the exemptions under The Legislative Reform (Entertainment Licensing) Order 2014 for certain types of entertainment, aligns with practical licensing approaches. We strongly support the stance of Welwyn Hatfield Council against permitting circuses with performing animals on Council land. This decision reflects a progressive and compassionate approach towards animal welfare.</p>	None	
<p>31. Garages and motorway service areas We support the provisions outlined in Section 31 regarding the sale of alcohol at garages and motorway service areas. Upholding the law as per Section 176 of the Licensing Act 2003 is crucial. We agree that businesses should provide clear evidence of their primary commercial activities to ensure they comply with licensing regulations.</p>	None	
<p>32. Film Classification While we recognize the intent behind the Film Classification section in empowering the Licensing Authority to make alternate film recommendations, we have significant reservations about certain provisions. We are particularly concerned about the scope of authority and expertise of a Borough Council in overruling the recommendations of a specialized body like the British Board of Film Classification (BBFC). Allowing a local regulatory body independently to alter or override judgments of the BBFC represents an unusual expansion of local authority into areas typically governed by national expertise. We firmly believe in respecting and adhering to the professional judgments made by established classification bodies like the BBFC, as this ensures uniformity and predictability in film classification. Furthermore, we strongly oppose the provision allowing the Licensing Authority to change film classifications based on requests</p>	<p>Under the Licensing Act 2003 the definition of film has been expanded to mean any exhibition of moving pictures, including feature films, adverts and trailers. This definition also now covers the showing of a video and other visual image media, including non-live digital exhibitions of plays, operas and pop concerts. The Licensing authority is able to reclassify films with a BBFC age restriction if it considers it necessary or give an independent film or banned film a rating to be shown in the</p>	

<p>from third parties. This aspect of the policy opens the door to subjective and potentially arbitrary decision-making, which could undermine the independence, credibility and consistency of film classifications. However, we do support the provision for special circumstances, such as in cases where a film has not been classified by the BBFC. This typically applies to small, local, independent films, or foreign films not intended for a wider UK release. In such cases, the role of the Licensing Authority in issuing alternate recommendations is understandable and necessary to ensure that these films are appropriately classified for our community.</p> <p>In summary, while we support the role of the Licensing Authority in special circumstances, we advocate for a clear and consistent approach where the expertise of the BBFC is the primary guide for film classification, ensuring a standardized and reliable system that respects professional expertise and national standards.</p> <p>We acknowledge the new sections regarding 'parent and baby' screenings in the Film Classification policy. This provision allows for practical adaptations in cases where standard film classifications may not fully address the specific needs of parents with very young children. We recognize the Licensing Authority's role in making alternate recommendations for these screenings, balancing the need for family-friendly environments with adherence to film classification guidelines. It's a reasonable approach to an area not explicitly covered by current legislation, ensuring both the protection of children and the accommodation of modern family needs.</p>	<p>Borough.</p> <p>In practice this rarely happens, although in 2002 several local authorities including Welwyn Hatfield BC watched Spiderman to determine if it required a local PG or PG12 certificate. The BBFC rating was a 12.</p> <p>The licensing authority considers the classification system process used by the BBFC and its guidance to be nationally understood. It will therefore use the general principles of their guidance and their processes as its benchmark for determining its recommendation on the restriction of access of children to the film(s). For more information regarding classification, see the BBFC website for more information.</p> <p>Section 32 to remain as this power exists and has already been used but was not previously identified in our policy</p>	
<p>36 Cumulative Effect</p> <p>The very long and cumbersome URL (Web Address) in section 36.4 should be replaced with a "Short URL" of some description as it is quite unnecessary to have such long URLs embedded into Policy documents.</p>	<p>New URL www.welhat.gov.uk/hatfield/pspo Insert new URL</p>	
<p>Other Updates</p> <p>We have not commented on some sections</p>		

<p>where for example the Borough appears to be seeking to improve processes or bring the document up to date with legislation, but we remain broadly in support of these additions and updates.</p>		
<p>Response from North Mymms Parish Council</p>		
<p>North Mymms Parish Council (NMPC) disagree with the proposal to increase the number of Temporary Event Licences (TENS) particularly as this does not take account of rural allocations/events on fields in the countryside</p>	<p>The increase to the TENS limits is a government change and is only reflected as a comment in our policy.</p>	
<p>NMPC object to 25.4 in the policy document. No event should be allowed to occur without local consultation as well as the police and LPA in order to meet all four points of the Licensing objectives</p>	<p>The Temporary event notice system is a light touch system designed for small events following consultation with the police and EH.</p> <p>Part of the Act so no change to the policy.</p>	
<p>NMPC consider it is vitally important that the local community is consulted early in any application particularly outside events in rural location especially around villages. Events have been taking place in open fields with no noise attenuation, in locations where public transport is unavailable leading to unrestricted parking causing obstruction on roads & no pedestrian footpaths. This also increases the likelihood of driving under the influence after the event closes. All of these effect the local community directly who should be given consideration in a timely manner. Parish Councils should be given more information about applications in advance of a decision/event in order to consult and advise with the LPA & police for any and all events.</p>	<p>All applications for events that require a licence are listed on our website and more information can be obtained from the licensing authority. In addition parish councils are sent screen shots of all new applications on a weekly basis. However parish councils are not responsible authorities under the licensing act so do not receive full applications automatically for comment.</p> <p>The licensing enforcement policy and legislation is followed for unlicensed events and licensed events can be</p>	

	<p>brought in for review.</p> <p>No changes required to the policy.</p>	
<p>NMPC feel that there is an inadequate amount of information provided in advance of large openair events. Other application have to apply for planning permission giving plenty of appropriate information of events and structures that are going to be utilised e.g. toilet facilities and waste/rubbish disposal should be factored in to all applications.</p>	<p>Planning is outside of the Licensing Act and this policy. Most large events go through the SAT process where all information on structures/ toilets and other event management are considered by experts.</p> <p>No changes required to the policy.</p>	
<p>Two other respondents to the survey made no comments regarding changes to the policy.</p>	<p>No changes required to the policy.</p>	

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