

**WELWYN
HATFIELD**
BOROUGH COUNCIL



Welwyn Hatfield Borough Council

Licensing Act 2003

Statement of Licensing Policy 2015-2020

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 to the Department of Culture Media and Sport Guidance (“the Guidance”) issued in June 2013

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.

Owing to the unique nature of Welwyn Hatfield 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 now to reflect the changes that have been introduced by the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012 as detailed below.

- change in definition of regulated entertainment with regard to live music;
- the Licensing Authority being a responsible authority;
- Health Board being a responsible authority;
- the suspension of licenses following non-payment of the annual fee;
- changes to Temporary Event Notices (TENs) to include late TENs ;
- EMROS [Early Morning Restriction Orders]
- Late Night levies.
- There are also proposals to introduce further changes to deregulate regulated entertainment. These will include changes to the definition of regulated entertainment for audiences of less than 500 people. There are also certain exemptions in relation to community venues such as council run halls, schools, hospitals and nurseries.

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.

We have also considered the Home Office Guidance issued under section 182 of the Licensing Act (June 2013) in preparing the policy.

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 again. 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. 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 paragraph

13.2 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 40 of this policy.

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

The policy is in force from 20th January 2015 to 20th January 2020 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 Appendix A

Our consultation was conducted between 14th July and 26th August 2014.

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 on 12th January 2015

Our licensing committee will consider each spring how the policy has operated, and whether any changes are needed to it.

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. 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 nearly 80% of the borough is designated as Metropolitan Green Belt. The towns are the main sources of housing, shopping, leisure and employment in the borough. The population is approximately 110,500 residents.
- 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 Welwyn Garden City is the largest settlement in the borough in terms of population and area. 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.
- 1.4 Welwyn Garden City was later designated as a New Town following World War II and more housing was built, largely to the east of the railway line, during the 1950s. The residential areas were planned as a series of neighbourhoods with neighbourhood centres providing shops and other community facilities. Welwyn Garden City also has significant areas designated for office, industrial and warehouse uses and currently accommodates a number of major employers such as Xerox, Tesco and Roche.
- 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 Following the closure of the aircraft industry in the early 1990s, the former Hatfield Aerodrome site was redeveloped in the 2000s for housing, a new university campus for the University of Hertfordshire, retail and a business park which has successfully replaced the jobs lost in the town by the closure of the Aerodrome. The business park now includes several major employers such as Everything Everywhere (formally T-Mobile), Computacentre, Eisai, Ocado, Veolia Water and the Environment Agency.

- 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 On the whole, the quality of life in the borough is good; however there are disparities in the health of those in the most and least deprived areas. Overall Welwyn Hatfield has a higher than average life expectancy, however it is 6.3 years lower for men and 7 years lower for women in the most deprived areas of the borough than in the least deprived areas. Although below the national average, 1 in 5 people smoke and 1 in 5 people are obese in the borough. Levels of physical activity for adults and children are below 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 District Plan and emerging core strategy (through our development control team or on our website at www.welhat.gov.uk) 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. In addition 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 review a licensing policy. Our Licensing Policy Statement first came into effect on 7th February 2005. The Policy was last revised in 2011 and should be revised every five years. We are revising the policy early to reflect the changes in regulation.
- 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 each agency and the wider community.
 - to use information to inform and develop multi- agency contingency planning.
 - 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. Pubwatch, Offwatch. We would encourage all businesses to invest in staff training and maintain written records of the training.
- 2.8 This policy provides information and guidance to licence applicants, objectors and any person on our approach to the Licensing Act. Each application will be considered on its own merits. We will consider this licensing policy in making our decision.
- 2.9 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 paramount at all times. 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 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.

- 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 are not required to be licensed but 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 10 working days prior to the event to enable the application to be processed. 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 in our own name. The Council hold licences for Hatfield and WGC Town centres, Campus arena WGC, and Campus West details are in Appendix D.

3. Contact details/ Advice and Guidance

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

Contact details: Licensing Support Officer
Licensing
Welwyn Hatfield Council
Council Offices
The Campus
Welwyn Garden City
Hertfordshire
AL6 9UE

Telephone: 01707 357925

Fax: 01707 357464

Email: licensing@welhat.gov.uk

4. Formulation of this policy

- 4.1 This policy statement is based upon the Act and takes account of Department of Culture, Media and Sport Guidance (revised June 2013) 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 A.
- 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.

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.19 of the Act in 2010. The Council will not be re-issuing all existing licences so as to include these conditions as the s.182 Guidance has confirmed at paragraph 10.53 that this is not necessary. The conditions will apply automatically to all premises licences and club premises certificates that authorise the sale or supply of alcohol for consumption on the premises. Only condition 4 of SI 2010/860 will apply to premises licensed for the sale or supply of alcohol for consumption off the premises.
- 5.3 Condition 1 of SI 2010/860 refers to 'irresponsible drinking promotions' in relation to the retail sale of alcohol for consumption on the premises. When we consider this issue, we will have regard to the s182 Guidance and the Home Office publication 'Selling Alcohol Responsibly: The New Mandatory Licensing Conditions', dated April 2010. Whilst the Home Office publication makes it clear that certain promotions will no longer be permissible, such as 'all you can drink for £10', the Licensing Authority will consider the merits of each promotion, whilst being mindful that for a promotion to be considered irresponsible, it must be a promotion that carries significant risk of leading or contributing to crime and disorder, prevention of public safety, causes a public nuisance or exposes children to harm.
- 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 applicants 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 external areas for example beer gardens or smoking shelters. In appropriate circumstances the Council will look to other mechanisms, which are available for addressing 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 f 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: www.welhat.gov.uk

6. Duplication

- 6.1 The Council will respect the independent role of its regulatory partners, both internal and external to the Council, and it is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators e.g.
- The Gambling Act 2005
 - The Environmental Protection Act 1990
 - The Noise Act 1986
 - The Clean Neighborhoods and Environment Act 2005
 - The Regulatory Reform (Fire Safety) Order 2005
 - Health and Safety at Work etc Act 1974
 - The Equality Act 2010
 - Town and Country Planning Act 1990 (as amended)

7. Partnership Working

- 7.1 There is a continued emphasis on working between the Police, the Environmental Health Authority 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.
- 7.3 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.
 - Further guidance as to this matter is available from the Equality and Human Rights Commission.

- 7.4 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.
- 7.5 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:
- PubWatch and Offwatch Schemes
 - Alcohol Harm Reduction Strategy
 - Proxywatch
- 7.6 The licensing authority will consider each application on its own merits.
- 7.7 PubWatch 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
- 7.8 We will support the use of the PASS schemes in conjunction with Trading Standards.
- 7.9 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.
- 7.10 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.
- 7.11 The **Anti-Social Behaviour Act 2003** (soon to be amended by 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.

- 7.12 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.
- 7.13 **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:
- 7.14 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).
- 7.15 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.
- 7.16 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.
- 7.17 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.
- 7.18 The **Environmental Protection Act 1990** places a duty on local authorities to investigate complaints of nuisance which include noise, and take enforcement action where a statutory nuisance exists. 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.
- 7.19 The soon to be introduced Community Protection Notices may be appropriate to deal with certain detrimental effects arising from licensed premises such as litter.
- 7.20 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.

- 7.21 The **Equalities 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.
- 7.22 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
- 7.23 When considering applications, the Council may need to consider a number of wider issues with contributory impact. To ensure these issues receive the necessary consideration, the Council's Licensing Committee will receive, as necessary, reports from the appropriate Officer on:
- The needs of the local tourist economy;
 - The cultural strategy for the area;
 - Levels of employment in the area/need for new investment and employment;
 - Any planning considerations that might affect licensed premises.
- 7.24 For the purpose of ensuring an informed approach to the execution of its duties under the Act, the Council will set up 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.
- 7.25 The Council will work with the local Police and transport providers to ensure that local transport needs are identified to disperse people from town centres swiftly and safely and to avoid concentrations that produce disorder and disturbance. Whilst there is currently no public transport provision after midnight in the Borough, the Council licenses hackney carriages, private hire vehicles and their drivers.
- 7.26 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 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 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.
- 9.4 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.
- 9.5 The Sub- Committee usually meets in public; it does have power to hear certain applicants 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.
- 9.6 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.

10. The Welwyn Hatfield Council Licensing Committee

- 10.1 The Council will maintain a Licensing Committee consisting of between 10 and 15 Members of the Welwyn Hatfield 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 of 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 take into account this licensing policy.
- 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 Head of Public Health and Protection to grant licence applications under the Act that are non-contentious. The Director of Governance or other suitably nominated officer will sign such licences on behalf of the Council. 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 the variation 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. Sexual Entertainment

15.1 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

15.2 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.

15.3 In summary, premises seeking to provide sexual entertainment such as lapdancing 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.

15.4 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.

16. Drugs

16.1 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. Making an application

17.1 All the relevant information about how to make an application is available on the Council website. A full list of responsible authorities and their appropriate contact details together with all relevant application forms and guidance are all available on the council website; <http://www.welhat.gov.uk/index.aspx?articleid=273>

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

18. Personal licences

18.1 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.

18.2 Any individual may apply for a personal licence whether or not he is currently employed or has business interests associated with the licence use.

18.3 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.

18.4 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 for ten years 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.

18.5 All holders of a Personal Licence issued by this Council must apply to this Council for the renewal of their Personal Licence, 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.

19. Designated premises supervisor

19.1 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.

20. Public register

20.1 We are required to produce a public register containing details of the applications that have been made and this can be found at <http://www.welhat.gov.uk/index.aspx?articleid=1044>

If further information or details are required you can contact the licensing team on the details at page

21. Making a representation

21.1 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.

21.2 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)].

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

22. Vicinity

22.1 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 objective and must not be frivolous or vexatious.

22.2 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.

23. Temporary Event Notices (TENs)

23.1 A temporary event notice [T.E.N.] is a quick 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.

- 23.2 TENs. 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. TENs 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)
- 23.3 A maximum of twelve TENs can be submitted each calendar year for any premises. One premises can operate its business under TENs for a maximum of 21 days in a calendar year.
- 23.4 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.
- 23.5 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.
- 23.6 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.
- 23.7 Where the Police or Environmental Health object they will serve an objection notice on you. You can then discuss the event and agree modifications to address their concerns. If no agreement is reached, we will hold a hearing to consider the objection.
- 23.8 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.
- 23.9 There are also '**Late**' TENs 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.

23.10 The Council have an established 'Safety Advisory Group' (SAG) comprising of representatives from the emergency services and other statutory agencies. This Group advises and co-ordinates planning for public events in the district whether or not a premises licence or a temporary event notice is needed.

23.11 **We recommend that you 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.**

24. Large events and events attended by over 5,000 persons

24.1 Organisers of large events are strongly advised to contact the Council's Licensing Team for advice at the earliest opportunity when planning events. Where necessary, the advice of the 'Safety Advisory Group' can be obtained, or discussions held with the Police and Environmental Health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.

24.2 Whilst a premises licence could be granted after 28 days of the application being served, applicants should be aware that the processing time for an application that has received relevant representations can be up to 2 months. Organisers should also have early discussions with responsible authorities such as the Police, Environmental Health and Fire Protection

24.3 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.

25. Live Music Act

25.1 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

25.2 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.

- 25.3 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.
- 25.4 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.

26. Licensing Policy Decisions

- 26.1 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.
- 26.2 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.

27. Licensing Hours

- 27.1 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.
- 27.2 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.
- 27.3 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.
- 27.4 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.

- 27.5 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.
- 27.6 The Council operates an out of hours 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.
- 27.7 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.

28. Variations

- 28.1 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.

29. Cumulative Effect

- 29.1 We will not take ‘need’ into account when considering an application.
- 29.2 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.
- 29.3 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
 - Designated places where alcohol consumption can be restricted if necessary to prevent disorder [DPPO]
 - 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
- 29.4 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 Designated public places order (DPPO) where alcohol consumption can be restricted if necessary to prevent disorder the extent of this order can be viewed at www.welhat.gov.uk/acz. Where this authority occupies or manages premises, or premises are managed on its behalf, and it licences that place for alcohol sales the DPPO will not apply when the licence is being used for alcohol sales (or 30 minutes after) but the place will be subject to the DPPO at all other times. This allows this authority to promote community events whilst still using DPPOs to tackle the problems of anti social drinking.
- 29.5 The Antisocial Behaviour, Crime and Policing Act 2014 will bring about some changes to the current DPPO'S.

30. Early Morning Restriction Orders (EMRO)

- 30.1 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.
- 30.2 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
- 30.3 Guidance² has been introduced in relation to:
- the EMRO process
 - the evidence base
 - introducing an EMRO
 - advertising an EMRO
 - dealing with representations
 - hearings
 - implementation

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

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

- limitations
 - enforcement
- 30.4 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.
- 30.5 The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. 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.
- 30.6 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.

31. Late Night Levy

- 31.1 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.
- 31.2 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.
- 31.3 There are also Regulations in force setting out the way in which the levy must be applied; they 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
- 31.4 We will have discretion as to whether we exempt certain premises but these can only be the types of premises set out in paragraphs 1.24 to 1.31 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 1.33 to 1.37].

- 31.5 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.
- 31.6 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.
- 31.7 **We do not anticipate introducing a late night levy at present.**

32. General Enforcement Statement

- 32.1 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.
- 32.2 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.
- 32.3 We believe that proportionate but vigorous enforcement will be a key element in ensuring the successful implementation of the 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.
- 32.4 The Council will arrange for Officers to inspect every premises that it has not previously inspected to secure compliance with the Licensing objectives and this policy. Further inspections of premises will be undertaken on a risk based principle and may vary between 6 months and three years, targeting poorly managed premises that fail to satisfactorily meet the Licensing objectives.
- 32.5 We will use a graduated form of response expected to resolving 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.
- 32.6 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.

- 32.7 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.
- 32.8 In addition, the Council recognises that the Police are given their own powers in relation to enforcement under the Act.

33. Copyright

- 33.1 Licences may be required for the use of copyright works, such as music and screening licences 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.

34. Children

- 34.1 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.
- 34.2 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.
- 34.3 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.

- 34.4 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.

- 34.5 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.
- 34.6 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.
- 34.7 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.
- 34.8 Acceptable forms of Proof of Age are:
- Photo Driving Licence
 - Passport
 - Proof of Age Standards Scheme (PASS)
- 34.9 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.

35. Requests for a review of licences

- 35.1 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, a councillor, or an any other person, may ask the Council to review the licence to premises because of problems arising in connection with any of the four Licensing objectives.
- 35.2 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.

- 35.3 The Council will set up a scheme of delegation to allow the Head of Public Health and Protection 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.
- 35.4 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 11.2 of the section 182 guidance to the licensing act.
- 35.5 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.
- 35.6 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.
- 35.7 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.
- 35.8 We would recommend that any one applying for a review to consider Chapter 11 of the section 182 guidance to the Licensing Act 2003.

36. Conduct of hearings

- 36.1 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
- 36.2 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 as an

interested party in their own right if they live or are involved in a business in the vicinity of the premises in question. 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.

- 36.3 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

37. Appeals against decisions

- 37.1 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.

38. Failure to pay annual fees –licence suspension

- 38.1 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.
- 38.2 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 so as to allow for resolution as 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.
- 38.3 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.
- 38.4 We will notify Hertfordshire Constabulary and the relevant responsible authorities as defined under the Act.
- 38.5 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.
- 38.6 The quickest way to reinstate a licence would be to pay by card directly to the licensing team on 01707 357925 although there are other methods of payment. As described on the council website.
- 38.7 **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.**

39. **Data Control**

39.1 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 consulted

Person(s) from whom comments will be invited
Chief Constable, Hertfordshire Constabulary and Police Sergeant Community Safety Unit
Chief Fire Officer and Community Fire Safety Unit
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.
Director of Public Health England Hertfordshire
All persons recorded on the Court 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
The Parish and Town Councils
Neighbouring local authorities
WHC Planning Policy Unit , Town Centre Manager, Community Safety Unit Environmental Health Teams Law and Admin Service
HCC social services
Trading Standards
Local solicitors and those involved with applications in the Welwyn Hatfield Borough.
The Health and Safety Executive
British Transport Police
Local Tourist Office
Musicians' Union and Equity

Appendix B – List of Responsible Authorities and contact details

Social Services

Contact: Hilary Griffiths
Address: Relevant Authority Licensing Act
Room 127
Local Safeguarding Children's Board
County Hall
Pegs Lane
Hertford
SG13 8DF
Tel. 01992 555077

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@hertsc.gov.uk

Police

Contact: Stewart Budd Police Licensing Officer
Address: Licensing Department
Hatfield Police Station
Comet Way
Hatfield
Herts.
AL10 9SJ
Tel. 01707 806492

Environmental Health

Contact: Borough Environmental Health Officer
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: Borough Planning Manager
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: Borough Fire Safety Manager
Address: Hertfordshire Fire and Rescue Service
Longfield,
Hitchin Road
STEVENAGE
Hertfordshire
SG1 5AE
Email: LicensingActNorth.Fire@hertscc.gov.uk
Web: www.hertsdirect.org.uk

Health and Safety Executive

Contact: Health and Safety Officer
Address: Woodlands
Manton Lane
Manton Industrial Estate
Bedford
MK41 7LW
Tel: 01234 220633
Web: www.hse.gov.uk

Health and Safety Authority

Contact: Borough Health and Safety Officer
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

Appendix C. Decision making arrangements

Matter under consideration	Appropriate forum		
	Full Committee	Sub Committee	Head of Public Health and Protection (who may further delegate to another officer).
Application for a personal licence		If Police objection made	If no representation made
Application for a personal licence with unspent convictions		All cases	
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	1.2 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 lead authority		All cases	
Determination of a police representation to a temporary event notice		All cases	

Appendix D

WGC	Howardsgate, part of Parkway, Stonehills, Fretherne Road, part of Church Road, Wigmores South and Wigmores North	Supply of alcohol, Provision of regulated entertainment – plays, live music, recorded music, performances of dance and anything of a similar description.
WGC	Campus Arena The Campus WGC AL8 6BX	Provision of regulated entertainment – plays, live music, recorded music, performances of dance, anything of a similar description, Provision of entertainment facilities for making music, dancing and anything similar.
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 to that falling within (e), (f) or (g).

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 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.
Interested Party	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	With regard to parts 3 and 4 of the Act the Responsible Authorities are, Chief of Police, the Fire Authority and the Licensing Authority.
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 interested party such as a resident living in the vicinity of the premises 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.