



# Statement of Licensing Policy

under the Licensing Act 2003

## 2016 – 2021



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Working in partnership, to create a Borough which enables the communities of Dacorum to thrive and prosper

Affordable Housing ♦ Regeneration ♦ Building Community Capacity ♦ Safe and Clean Environment ♦ Dacorum Delivers

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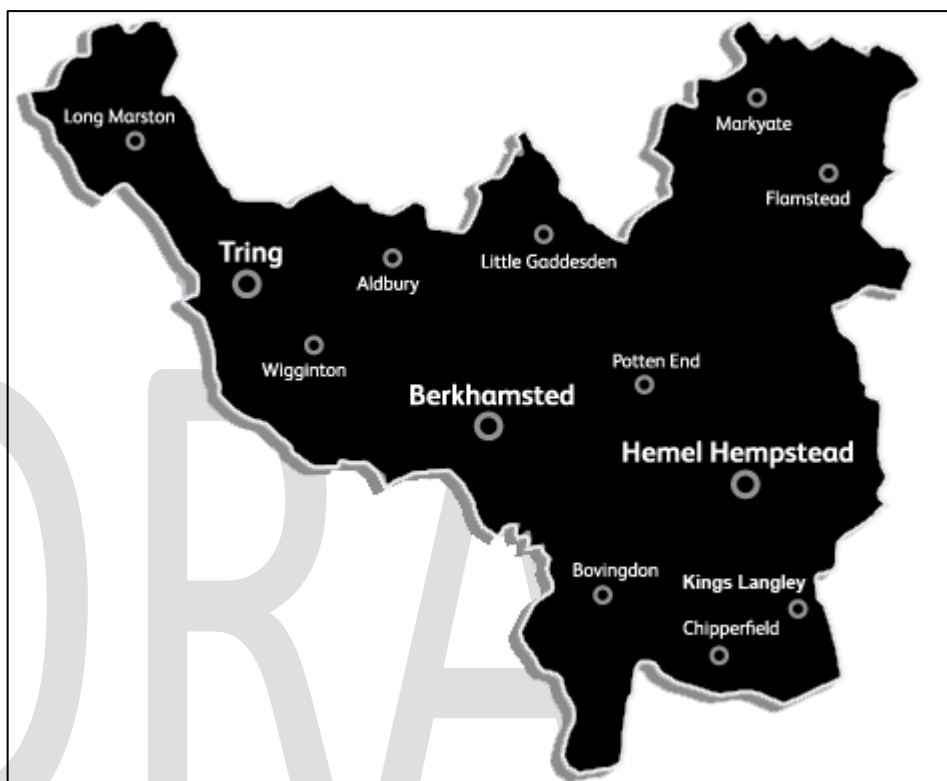
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# Introductory information



## 1. About Dacorum

- 1.1. Situated in western Hertfordshire, Dacorum is a borough with a mixture of strong urban and rural identities. It includes the towns of Hemel Hempstead, Berkhamsted and Tring as well as a number of villages, from Long Marston in the west to Flaunden in the south-east. Over a third of the borough's 210 square kilometres have been designated as part of the Chilterns Area of Outstanding Natural Beauty, while most of the rest has high landscape quality and potential.



- 1.2. One of the first 'New Towns' built after the Second World War, Hemel Hempstead's development reflects the original concept of the new town as a series of integrated communities with individual identity and neighbourhood focus. The rapid growth of Hemel Hempstead is reflected in the large number of buildings of similar age and appearance.
- 1.3. Much of the rest of the borough is rural, including two market towns: Berkhamsted and Tring. Although agriculture is no longer a major employment sector in Dacorum, our communities value their rural heritage, and the conservation of historic buildings and landscapes are important considerations. We know that our communities expect good, modern services and thriving town centres. Dacorum Borough Council works closely with the town and parish councils which represent communities in rural areas of the borough, to deliver these aims.
- 1.4. Dacorum has a population of 144,800<sup>1</sup>, the largest of the Hertfordshire districts. Further information about Dacorum and the demographics of its populace can be found in the 'Statistics about Dacorum' area of the council's website<sup>2</sup>.
- 1.5. The majority of the borough's licensed premises fall in and around the main urban areas, with particularly high concentrations of licences in Hemel Hempstead in the historic Old Town, and the Jarman Fields leisure complex, as well as around the High Streets of Berkhamsted and Tring.

<sup>1</sup> Office of National Statistics, Census 2011 (published July 2012)

<sup>2</sup> [www.dacorum.gov.uk/home/community-living/statistics-about-dacorum](http://www.dacorum.gov.uk/home/community-living/statistics-about-dacorum)

- 1.6. Licensed premises can also be found in many of the community centres in outlying areas of Hemel Hempstead, while village pubs and shops are prevalent in many of the more rural communities.
- 1.7. Dacorum is also home to a number of nationally recognised destinations and historic sites, with places such as the Ashridge Estate, Berkhamsted Castle, the Snow Centre in Hemel Hempstead, and Champneys in Tring attracting visitors from across the region.
- 1.8. The borough is continuing to develop, and with significant regeneration planned for much of the borough and Hemel Hempstead in particular over the coming years, it is an exciting time for those who live and work in the area. Licensed premises are expected to form a key part of these regeneration plans<sup>3</sup>, and while it falls outside the remit of this document to specify exactly how those plans will be achieved, the principles and policies set out within this document will give details of the council's expectations on how licensing applications will be viewed and considered, and of how we will seek to preserve the balance between economic development and the protection of residents and businesses from issues arising from the operation of licensed premises.

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<sup>3</sup> <http://www.dacorum.gov.uk/home/regeneration/hemel-evolution>

## 2. About this document

- 2.1. This document is Dacorum Borough Council's statement of licensing policy in respect of the regulation of alcohol supplies, regulated entertainment and late night refreshment, and publication of it fulfils the authority's statutory obligation under section 5 of the Licensing Act 2003 ("the Act"). It sets out the policies and principles that we will follow when exercising our powers under that Act, particularly in respect of considering applications in respect of licences and other authorisations. It also gives details of our expectations of applicants and licence-holders. This statement must be published on at least one occasion in each five-year period. The statement must also be kept under review during its validity period, and revised if required, with any revisions published prior to taking effect.
- 2.2. This statement of licensing policy was adopted by the Council on the xx xxxx 2015, and was published via our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing). The statement will have effect from **7 January 2016** to **6 January 2021**. Any applications in progress on the first date will be considered under the previous version of the policy statement.
- 2.3. Since the last version of this policy statement was published in early 2011, the licensing legislation has been subject to numerous, significant amendments, and this revised policy has been comprehensively reviewed and updated to reflect the statutory changes, major legal cases, and the authority's experiences in exercising its powers that have taken place in the intervening period.
- 2.4. We are required to exercise our licensing functions under the Act with a view to promoting the licensing objectives, which are discussed in greater detail in later chapters. We must also have regard to our published statement of licensing policy, and to the Guidance for licensing authorities published by the Secretary of State under section 182 of the Act.
- 2.5. The purpose of this statement is to provide guidance to committees and officers determining matters under delegated authority, to provide consistency to our decision-making. However, where the circumstances justify doing so, we may depart from any provision of this statement, or of the Government's Guidance, to make an appropriate decision based upon the individual circumstances of a particular case. In any such case we will give a clear explanation and reasons as to why we have done so.
- 2.6. This policy statement reflects the wide range of competing, and sometimes conflicting, considerations which we must take into account when exercising our powers, and aims to balance these insofar as is possible.

### Our vision

- 2.7. Licensing authorities are encouraged to include a vision statement within their licensing policies, summarising the strategic aims and intentions that will guide the exercise of their licensing powers. Dacorum's vision statement is:  
  
**"To regulate the operation of a diverse range of safe, well-managed and enjoyable licensed leisure and retail outlets throughout the Borough, offering a variety of entertainment, cultural and community activities while also ensuring the promotion of the licensing objectives".**
- 2.8. The inclusion of such a statement in no way fetters the authority's discretion to determine cases on their individual merits, but rather seeks to guide applicants as to the authority's expectations of licensed premises.

## Interpretation

2.9. Within this policy statement:

- a) “the Act” means the Licensing Act 2003,
- b) “licensing authority” means Dacorum Borough Council,
- c) “Guidance” means the guidance to licensing authorities published by the secretary of state under section 182 of the Act<sup>4</sup>.

## Consultation

2.10. In producing this statement of licensing policy, the licensing authority has had regard to the licensing objectives of the Licensing Act 2003, the Guidance issued by the secretary of state, and any views expressed during our consultation upon the proposed statement.

2.11. We carried out consultation on a draft version of this statement of licensing policy, in accordance with the provisions of section 5 of the Act, between 3 August 2015 and 27 September 2015. The people and organisations we sought feedback from included:

- the responsible authorities, including Hertfordshire Constabulary, Hertfordshire Fire & Rescue Service and Hertfordshire Public Health,
- individuals and organisations who hold premises licences, club premises certificates and personal licences, issued by this authority,
- premises users who give temporary event notices (TEN’s) to this authority,
- representative bodies within the leisure and licensed retail trade industries,
- borough and county councillors,
- town and parish councils,
- the Members of Parliament for Hemel Hempstead and South West Hertfordshire,
- residents, businesses, and voluntary groups.

2.12. Views expressed in response to our consultation were considered prior to the determination of the final version of this statement.

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<sup>4</sup> <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

# Part A: Exercising our powers





### 3. General principles

- 3.1. The Act specifies a set of licensable activities, which may only be provided under an authorisation issued by the relevant local licensing authority (Dacorum Borough Council for all premises within the borough of Dacorum). The licensable activities, which are covered in greater detail within the next section of this statement, include supplying alcohol, providing regulated entertainment, and providing late night refreshment.
- 3.2. The types of authorisation which licensing authorities may issue to permit licensable activities include premises licences, club premises certificates, temporary event notices, and personal licences.
- 3.3. In exercising its licensing functions under the Act, the licensing authority shall:
- aim to promote the licensing objectives,
  - have regard to this statement of licensing policy, and
  - have regard to the Government’s Guidance.
- 3.4. The licensing authority may not reject an application nor revoke a licence in response to representations concerning general moral or ethical objections to the carrying on of licensable activities, unless a direct link to one or more of the licensing objectives can be established. In particular, the supply of alcohol is expressly permitted under UK legislation, and the licensing authority has a duty to act fairly and in accordance with the legislation.
- 3.5. Every matter considered by the Council, in its role as a licensing authority, will be considered on its own merits and in accordance with the statutory requirements of the Act. Nothing in this statement of licensing policy shall:
- a) prevent any person from making an application for authorisation or giving a notice under the Act;
  - b) prevent any person from making representation in respect of an application of a type where the Act provides for them to do so;
  - c) prevent any person from making an application for the review of a premises licence; or
  - d) restrict or fetter the Council’s discretion to consider and determine applications, or to initiate legal proceedings or other enforcement action, based upon the individual circumstances and merits of a particular case.
- 3.6. Typically, the licensing authority’s discretion over whether to refuse applications, to issue counter-notices or to impose additional licence conditions is only engaged if relevant representations or objection notices have been given to the authority within a prescribed period. For many of the application processes under the Act (with a small number of key exceptions), if no relevant representations or objection notices are received within the prescribed period, the licensing authority will be obliged to grant the application, subject only to any statutory conditions and conditions consistent with measures proposed by the applicant in their operating schedule.
- 3.7. The licensing authority also has a general duty under the Crime and Disorder Act 1998 “to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area”.
- 3.8. Dacorum Borough Council is a signatory of the Hertfordshire Local Enterprise Partnership’s ‘Better Business For All’ charter<sup>5</sup>, and we will follow the provisions of the charter when we exercise our regulatory powers in respect of licensable activities.

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<sup>5</sup> <http://www.hertfordshirelep.com/Better-Regulation.aspx>

## 4. Licensable activities

4.1. The Act regulates a set of broad 'licensable activities' relating to the leisure and retail industries, as follows:

- Supplies of alcohol, including:
  - Sale by retail of alcohol,
  - Supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- The provision of regulated entertainment, comprising:
  - Performances of plays,
  - Exhibitions of films,
  - Indoor sporting events,
  - Boxing and wrestling entertainments,
  - Performances of live music,
  - Playing of recorded music,
  - Performances of dance,
  - Entertainment which is similar to music or dance,
- The provision of late night refreshment.

4.2. To be considered licensable, entertainment must be provided in the presence of an audience (which may consist of a single person), and either be open to the public or a section thereof, or provided for a consideration (e.g. admission fee, tickets) and with a view to profit. The definitions of these activities were left deliberately wide so as to account for future developments in the industries carrying on those activities – for example in recent years there has been an increase in the number of 'silent discos', which are considered to be regulated entertainment as they consist of recorded music, but which may not have been captured under a narrower definition.

4.3. In recent years, the Government has pursued a deregulatory agenda in respect of entertainment licensing for community events and lower-impact entertainments by introducing new exemptions. As a result, many smaller-scale entertainments now fall outside of licensing requirements. Where this is the case, it should be noted that we may be unable to use our licensing powers to regulate these events, although other regulatory schemes may be utilised to remedy any issues that arise.

4.4. Schedule 1 to the Act details the exemptions that apply to entertainment licensing requirements.

4.5. Late night refreshment is defined as the sale of hot food or hot drinks, between the hours of 11 p.m. and 5 a.m. Exemptions applying to late night refreshment are set out in schedule 2 to the Act.

4.6. Although the Act has fairly wide application, it does not control every activity which may be carried out in licensed premises, and some premises which are authorised under this Act may also need separate licences and authorisations for other activities carried on at those premises. Where the licensing authority is responsible for issuing such authorisations (for example, for gaming machines or prize gaming in licensed premises), we have published separate licensing policies to give details of how applications for those alternate licence types will be considered.

## 5. Licensing objectives

5.1. Licensing authorities must carry out their functions with a view to promoting the four licensing objectives, which are:

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

Each objective has equal importance.

5.2. It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The licensing authority will therefore continue to work in partnership with its neighbouring authorities, the police, local businesses and local people towards the promotion of the licensing objectives as outlined.

5.3. The licensing authority expects applicants to address the licensing objectives within their operating schedules, having regard to the nature of the premises, the licensable activities to be provided, operational procedures, the nature of the location and the needs of local communities. The operating schedule should contain sufficient information to enable the licensing authority, responsible authorities and other persons who may be affected by the operation of a licensed premises to assess whether the steps which will be taken to promote the licensing objectives are sufficient to negate any potential adverse impact.

5.4. The licensing authority is committed to empowering local community action, and meeting the needs of its communities through close partnership working with others. The licensing authority recognises that licensed entertainment can provide a valuable contribution towards the economy of the Borough, and seeks to balance the needs of the local business holders and licensees, whilst protecting those of local residents.

5.5. Further policy considerations in respect of each of the objectives are set out below.

### Crime and disorder

5.6. When considering applications and reviews the licensing authority will give consideration to:

- whether the premises make or will make a significant contribution to levels of crime and disorder in the local area, and
- whether the operating schedule demonstrates that an adequate risk assessment of the likelihood of crime and disorder occurring as the result of the issue of an authorisation has been carried out by the applicant.

5.7. The authority will work closely with Hertfordshire Constabulary and the other members of the Dacorum Community Safety Partnership, both to monitor and investigate incidents of crime or disorder associated with licensable activities at and around licensed premises, and to identify emerging trends and patterns in such incidents.

5.8. To achieve the best results, the prevention of crime and disorder requires partnership working between statutory bodies and licensed premises. While there are a number of measures which licence-holders can, and will be expected to, implement in order to promote this objective within their premises, the authority also expects licence-holders to understand which issues they will not be

able to resolve themselves, and to liaise and co-operate with the licensing authority, police, and other bodies. In particular, incidents occurring outside of but in the vicinity of licensed premises, which do not involve the customers or staff from that premises, are likely to be outside of the direct control of licence-holders, but they may be able to provide evidence or intelligence allowing statutory bodies to investigate the incident in question.

## Public safety

- 5.9. When considering this objective, the licensing authority will concern itself with the physical safety and wellbeing of the people who use licensed premises, and those who may be affected by the use of licensed premises (e.g. non-customers who happen to be in the immediate vicinity of a premises). This will include measures that seek to prevent accidents, injuries and short- or long-term illnesses to staff, customers or other persons.
- 5.10. There are several regulatory regimes concerned with public safety, and the licensing authority will seek to avoid duplication with these insofar as is possible. In particular, we will not duplicate obligations placed upon licence-holders under the Health and Safety at Work Act 1974 or the Regulatory Reform (Fire Safety) Order 2005 (which is discussed further later in this Statement). However, where representations are made by responsible authorities responsible for enforcing these regimes concerning the failure of a licence-holder to adhere to or comply with another regime, the licensing authority may consider whether this is indicative of a wider systemic failure on the part of the licence-holder to promote the licensing objectives.
- 5.11. Where a premises is providing high-risk activities ancillary to licensable activities, or is utilising special effects in conjunction with a licensable activity, such as the use of lasers, pyrotechnics, dry ice, smoke machines, foam machines or strobe lighting during an entertainment performance, the licensing authority expects that all necessary equipment and materials will be under the control of a suitably-trained and experienced individual, and for a suitable risk assessment to have been carried out prior to use.

## Public nuisance

- 5.12. The licensing authority will interpret the term 'public nuisance' widely, and when considering this objective will take into account issues relating to noise, vibration, light, litter, offensive odours and anti-social behaviour arising from or in connection with the provision of licensable activities.
- 5.13. This objective does not mean the complete prevention of all of the above issues, but rather the prevention of such unreasonable levels of these as would constitute a nuisance to the public or a section thereof. A degree of noise, for example, is an inevitable consequence of the provision of most forms of regulated entertainment. The licensing authority will therefore seek to exercise its powers in a way which promotes the licensing objective, to discourage and eliminate the carrying on of licensable activities in a way that causes unreasonable inconvenience, upset or distress to others.
- 5.14. The authority notes that, as with other licensing objectives, other regulatory regimes exist which may be used by statutory bodies to control the adverse effects of these issues, and will seek to avoid duplication with these regimes. The Environmental Protection Act 1990 in particular allows environmental health officers to require the abatement of a statutory nuisance. However, the licensing authority also notes that this regime is largely reactive, whereas licensing may be used to establish proactive controls, preventing a nuisance from reaching a statutory level in the first instance.

- 5.15. Where representations are made by a responsible authority with nuisance prevention obligations, advising that restrictions may be necessary to prevent a nuisance from arising, the licensing authority will consider the imposition of conditions or the modification of operating schedules as it considers necessary to promote this licensing objective.
- 5.16. Nuisance may arise directly as a result of licensable activities (for example, noise from music), or indirectly (noise from customers at the premises). Applicants and licence-holders are strongly encouraged to consider all possible sources of nuisance when compiling operating schedules, and to implement appropriate measures for the promotion of this objective. For many types of nuisance, this process will begin in the initial design stages prior to the construction or redevelopment of premises. The Council's Regulatory Services officers may be consulted for informal advice, prior to the making of a licence application, on proposed measures likely to reduce or prevent the likelihood of public nuisance arising from the operation of licensed premises.
- 5.17. The licensing authority will have regard to best practice guidance when considering this licensing objective, including but not limited to:<sup>6</sup>
- Guidelines on Community Noise (World Health Organisation)
  - Effective Management of Noise from Licensed Premises (British Beer and Pub Association)
  - Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- 5.18. Where premises which are the subject of licensing applications involving amplified musical entertainment beyond 11pm are in close proximity to residential properties, the licensing authority will require a comprehensive operating schedule listing measures that the applicant intends to implement to ensure the promotion of this licensing objective.
- 5.19. The licensing authority will also pay close regard to premises in close proximity to residential property proposing or permitted to trade after 11pm, where the premises includes one or more external areas for use by customers (for example, beer gardens, external dining areas, or smoking areas), as use of such areas by customers has the potential to lead to a public nuisance if not closely controlled. Applicants are required to include measures within their operating schedule setting out how they intend to control the use of such areas, in order to promote this licensing objective.

## Protection of children

- 5.20. The licensing authority is aware that this objective relates primarily to preventing children from being exposed to or permitted to access age-restricted products, such as alcohol; or age-restricted services, such as films with content deemed suitable only for adults or relevant entertainment of a sexual nature. Considerations relating to the physical safety and welfare of children will also be taken into account as part of any action the authority takes to promote the public safety objective.
- 5.21. There is no reason why children should not be admitted to responsibly-run, family-oriented licensed premises (for example, restaurants, theatres, cinemas (showing age-appropriate films), supermarkets, community premises, etc), when accompanied by a suitable adult, such as a parent or guardian, and the Act allows for this. However, it is an offence under the Act:
- to admit children to exhibitions of films if they are below the minimum age recommended by the licensing authority or a film classification body,
  - to allow unaccompanied children under the age of 16 to be present at premises being used exclusively or primarily for the supply of alcohol for consumption on those premises, or
  - to allow unaccompanied children under 16 to be present between midnight and 5 a.m. at

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<sup>6</sup> See Annex B for links to these documents

licensed premises supplying alcohol for consumption on the premises.

- 5.22. The licensing authority will only look to impose further restrictions beyond those set out above prohibiting access to premises by children if it considers it appropriate to do so, to protect the child from a relevant type of harm.
- 5.23. The licensing authority will judge each application and the circumstances pertaining to each premises on the individual merits. Examples which may give rise to concern in respect of children would include premises:
- where entertainment or services of an adult or sexual nature are commonly provided,
  - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking,
  - where there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of gaming machines),
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises, or
  - where other concerns relating to this objective have arisen.
- 5.24. Alternative options to limiting access by children may include, but are not limited to:
- limits on the hours when children may be present,
  - limits or exclusions on children when particular activities are taking place,
  - limited access to parts of premises, or
  - full exclusion of under-18s from the premises when any licensable activities are taking place.
- 5.25. Where a large number of children are likely to be present at a licensed premises, the licensing authority will expect an appropriate number of suitably-trained adult staff to be present, to control access and egress of children, and ensure their safety and protection from harm.
- 5.26. Even if the age restrictions mentioned above do not apply and the licensing authority has not attached conditions restricting access by children, there is still no obligation for licence-holders to admit children to their premises. Ultimately access to premises will remain at the discretion of the licence-holder, who may choose to adopt any reasonable admission policy.
- 5.27. Child sexual exploitation is a significant concern for licensing authorities nationwide, as demonstrated by a number of high-profile reported cases which revolved around licensed premises. Where the operation of licensed premises is causally or demonstrably linked to child sexual exploitation, the licensing authority will not hesitate to use the full range of powers at its disposal to promote this licensing objective. Further details regarding this issue are given later in this document.

## 6. Licensing authority functions

6.1. Licensing authorities have statutory responsibilities under the Act for:

- the authorisation of premises where licensable activities are to take place, through the issue of premises licences;
- the preliminary authorisation of premises for proposed licensable activities, through the issue of provisional statements;
- the authorisation of club premises where qualifying club activities are to take place, through the issue of club premises certificates;
- the review of premises licence and club premises certificates, at the request of a responsible authority or other person;
- the authorisation of individuals to authorise supplies of alcohol at licensed premises, through the issue of personal licences;
- the receipt and endorsement of temporary event notices, authorising infrequent licensable activities;
- investigating and taking enforcement action in respect of allegations on unlicensed activities, or activities carried out otherwise than in accordance with an authorisation or the legislation;
- the exchange of information with Government regarding details of applications, licences and notices and enforcement issues; and
- the maintenance of registers of the applications and notices received, and licences and certificates issued, by the authority.

6.2. The licensing authority has delegated its functions under the Act to the Licensing, Health & Safety and Enforcement Committee. In turn the Committee has delegated the exercise of these functions as summarised in the table at Annex A, to:

- the Licensing of Alcohol and Gambling Sub-Committee, to consider contested applications and notices, and review proceedings, and
- licensing officers, to deal with the day-to-day administration of applications, the grant of uncontested applications, and compliance and enforcement issues.

6.3. The scheme of delegation does not preclude officers from referring a particular matter back to the Sub-Committee, nor the Sub-Committee from referring a matter back to the full Committee.

6.4. There are three functions which must be exercised by the Council, and cannot lawfully be delegated. These are the adoption of a statement of licensing policy (although the Committee may undertake preparatory work and make recommendations to Council), the making of an early morning alcohol restriction order, and the adoption of a late night levy requirement (discussed later).

6.5. Duplication of other regulatory regimes, such as health and safety or fire safety, will be avoided in so far as is possible. In particular, this authority will not consider whether a premises that is the subject of a licensing application is likely to be awarded planning permission or building regulations approval, in its consideration of that application. This authority will though, listen to, and consider carefully, any concerns about proposed conditions that would be contrary to pre-existing planning restrictions, should such a situation arise.

## 7. Responsible authorities and other persons

7.1. Responsible authorities and other persons can make representations about certain premises licence and club premises certificate applications, or apply for a review of an existing licence or certificate. They include statutory bodies with professional expertise relevant to the regulation of licensable activities, and local residents and businesses that may be affected by the provision of such activities.

### Responsible authorities

7.2. Under the Act, a number of statutory bodies are specified as 'responsible authorities'. These bodies are ones whose duties and responsibilities may affect licensed businesses within the borough, or who have separate regulatory powers allowing for the control of one or more aspects of those businesses. They include:

- the licensing authority, and any other licensing authority responsible for part of a premises which lies across authority boundaries,
- Hertfordshire Constabulary
- Hertfordshire Fire & Rescue Service
- Hertfordshire Public Health
- Dacorum Regulatory Services
- Dacorum Local Planning Authority
- Hertfordshire Trading Standards (weights and measures authority)
- Hertfordshire Safeguarding Children's Board
- Health & Safety Executive (for premises where HSE is the enforcing authority under the Health and Safety at Work Act 1974 only)
- Canal & Rivers Trust, Environment Agency, and the Secretary of State (for vessels only)

7.3. The licensing authority is required by sections 13(4)(f), 69(4)(f) and 172B(4)(i) of the Act to designate a body which represents those who are responsible for or interest in matters relating to the protection of children from harm, and which the authority considers competent to advise it about these matters. For the purposes of these sections, the licensing authority recognises the Hertfordshire Safeguarding Children's Board as a responsible authority in connection with any application for a premises licence or club premises certificate, or a proposal to make an early morning alcohol restriction order.

7.4. Where an application is made in respect of a vessel, additional responsible authorities will be consulted in respect of that application. These include navigation authorities for the waterway(s) where the vessel will be while it is used for the provision of licensable activities, the Environment Agency, the Canal and Rivers Trust, and the Secretary of State. Waterways running through Dacorum include the Grand Union Canal, and the Rivers Gade and Bulbourne, although the latter two are unnavigable.

### Other persons

7.5. In addition to responsible authorities, any other person may make representation in respect of an application which is subject to public notice requirements, or apply for a review of a premises licence or club premises certificate. As well as people who live or work near licensed premises, this provision also allows any company, charity, community organisation or similar body, to make representations and apply for reviews in their own right.



- 7.6. Representations and review applications may also be made by persons who are democratically elected, such as borough, county, town or parish councillors, or an MP. Such representatives are free to make representations and review applications in their own right, and no specific evidence of being asked to represent any other person will be required.
- 7.7. The licensing authority will consider all representations or review applications received from persons other than responsible authorities, but may reject and disregard a representation or application, in whole or in part, if it believes that:
- a representation or ground for review is frivolous,
  - a representation or ground for review is vexatious,
  - a representation is not relevant to the likely effect of the grant of the application on the promotion of the licensing objectives,
  - a ground for review is not relevant to one or more of the licensing objectives;
  - a ground for review is a repetition of a ground for review or a representation made in respect of an earlier application for the same licence or certificate, where a reasonable interval has not elapsed since the earlier application.
- 7.8. For the purposes of the previous paragraph, the licensing authority will typically consider that a period of 12 months between review or other applications will constitute a reasonable interval, although the authority may consider evidence as to why it should use a shorter time period on a case-by-case basis.
- 7.9. When considering whether a representation or ground is frivolous or vexatious, the authority will consider the ordinary dictionary definitions of these terms. It is not possible to give an exhaustive list of what may cause the authority to exclude a representation or ground under these provisions, but examples may include relying on a matter with no relevance to the licensing objectives (for example, the effect of an application on nearby house prices) or a matter which is unrelated to the operation of the premises concerned (for example, litter repeatedly left on a pavement near a premises which is unconnected to that premises).
- 7.10. Persons with business interests within a similar trade sector as the subject of their representation (or review application) will be expected to satisfy the licensing authority that their representation (or application) is not made vexatiously with the intent of limiting competition to their own business. This will typically be by way of suitable and sufficient evidence within their representation or review application to support the claims that are being made and evidence how they are linked to the subject business.
- 7.11. The licensing authority must also reject any representation which was not given to the authority within the prescribed period for the associated application (typically 28 days for most applications, although minor variation applications and summary/closure order reviews are subject to shorter periods – in all cases, the final date for the submission of representations will be displayed on public notices at or near the premises and in a local newspaper, which will be checked by the authority).
- 7.12. Dacorum borough councillors who have agreed to represent a party to an application at a hearing, or who have made a representation in their own right, shall not sit on any Sub-Committee considering that application.

## 8. Representations and reviews

- 8.1. Where a right exists for a responsible authority or other person to make representations in respect of an application, any representation must be made in writing (whether by letter, fax or email), and must contain the name and address of the party making the representation, together with any relevant information to assist the licensing authority in determining their status. The grounds upon which the representation is made should also be clearly set out.
- 8.2. Our preferred means of receiving representations is by email, to [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk). However, we will continue to accept any valid written representation submitted by alternate means.
- 8.3. Representations may encompass a variety of views about an application, and may include comments or grounds which are supportive of an application, objecting to an application, or neutral about an application. The licensing authority will treat all relevant representations in the same manner, regardless of their stance.
- 8.4. Applications for the review of a premises licence or club premises certificate may only be made in the prescribed form, and following the procedure set out in the Act. Licensing officers are able to offer further advice on this procedure to any party considering making an application for review of a licence.
- 8.5. The licensing authority must have reasonable grounds in order to take action to refuse, to revoke or to suspend a licence. This means that it will usually need to see evidence which substantiates the grounds cited in representations or review applications if it is to act upon those grounds. Speculative grounds which cannot be substantiated have previously been found by the courts to carry little weight in the decision-making process, and it is therefore likely that the licensing authority would be unable to take action of a type referred to above if such grounds are the only ones cited in respect of an application.

## 9. Applications

- 9.1. Every matter requiring determination by the licensing authority will be considered on its individual merits, and in doing so the authority shall have regard to this Statement, the Guidance, and the need to promote the licensing objectives. Where applicable, an evidentiary hearing will be conducted prior to the determination of the matter, in full accordance with Regulations made under the Act.
- 9.2. Many application types are subject to a statutory provision whereby they must be granted in the absence of relevant representations. In such cases, licences must be issued for the full range of licensable activities applied for, subject only to applicable mandatory conditions, and conditions which are consistent with measures set out by the applicant within their operating schedule.
- 9.3. Where the authority's discretion is engaged, following receipt of a relevant representation or an objection notice, or in the case of review or minor variation applications, the licensing authority will apply the considerations set out below.
- 9.4. Almost all of the decision-making powers under the Act require licensing authorities to take such action as they consider appropriate for the promotion of the licensing objectives. The Act was amended to substitute 'appropriate' for 'necessary', a move which may be regarded as having increased authorities discretion in respect of the determination of applications. The licensing authority will now consider 'appropriate' in accordance with the standard dictionary definition: "suitable or proper in the circumstances".<sup>7</sup>
- 9.5. The licensing authority strongly encourages dialogue between applicants (or licence-holders) and persons affected or concerned about proposals within a licence application. In many cases, such concerns can be resolved informally, without the need for a hearing. Where parties give their consent, the licensing authority may facilitate mediation between parties to a prospective hearing, to explore whether an informal resolution can be achieved.
- 9.6. When considering applications for a new licence, or a variation of an existing licence, the options available to the authority will generally include: granting the application as applied for, granting the application with amendments to the operating schedule or additional conditions, or refusing the application. The last of these options is clearly the most serious, and the authority will only look to refuse applications where it is satisfied that the proposed activities could not be carried on, even with modifications or additional restrictions, without a detrimental effect to the licensing objectives.
- 9.7. The options available when considering premises licence or club premises certificate applications will include the restriction of licensed hours or the imposition of additional conditions, which may be considered appropriate for the promotion of the licensing objectives. These powers are considered in greater detail in the following chapters.

### Minor variations

- 9.8. The Act provides a simplified method for making changes to an existing premises licence or club premises certificate which will not adversely impact upon the licensing objectives, and which do not involve:
  - a substantial variation to the applicable premises,
  - authorising alcohol supplies for the first time,
  - increasing the permitted hours for the supply of alcohol,

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<sup>7</sup> <http://www.oxforddictionaries.com/definition/english/appropriate>

- transposing permitted hours for the supply of alcohol to have effect between 11 p.m. and 7 a.m.,
- extending the validity period of a time-limited licence (this can only be achieved through the grant of a new licence),
- changing the individual specified as the designated premises supervisor (a dedicated application type is available for changes of this type), or
- substituting the alternate licence condition for community premises (a dedicated application type is available for changes of this type).

9.9. Changes of a type listed above, or which may bring about an adverse impact on the licensing objectives, are not eligible for a minor variation application and must instead be made via a full variation application (unless otherwise indicated).

9.10. The type of changes that the authority will generally consider appropriate to be made via a minor variation application will include, but are not limited to:

- Internal reorganisation of a premises, including the relocation or removal of fixed or static furniture, where there is no significant change to the overall size or location of the licensed area;
- Removal or modification of outdated, unclear or unenforceable conditions;
- Removal, modification or addition of other conditions, with the prior agreement of relevant responsible authorities;
- Amendment of opening hours, with no change to the times during which licensable activities may be provided (e.g. to allow a premises to carry on non-licensable activities during breakfast trade); or
- Reduction of permitted times for licensable activities, or removal of activities the premises no longer intends to provide.

9.11. The authority may consider accepting other types of change within a minor variation application on a case-by-case basis, so long as they will not contravene the principles set out at para 9.8. Applicants are welcome to contact licensing officers for pre-application advice.

9.12. Unlike other application types, the absence of relevant representations will not prevent the authority from exercising its discretion in respect of a minor variation application. Minor variations must be refused, irrespective of any representations received, if the authority believes that the proposed changes, individually or cumulatively, could have an adverse effect on any of the licensing objectives.

9.13. Where a minor variation application is refused on grounds that the proposed change may adversely affect the licensing objectives, the applicant may submit a full variation application in respect of the proposed change, for consideration by the authority following a full public consultation process.

9.14. The power to consider minor variation applications has been delegated to the authority's officers, who will determine all such applications. The short time periods which apply to applications of this type preclude the arrangement of Sub-Committee meetings to consider such matters.

## 10. Licensing hours

- 10.1. Flexible hours for licensable activities and particularly the sale of alcohol can help to ensure that large concentrations of customers leaving premises simultaneously are avoided. Requiring a number of similar premises to close at the same time could lead to friction at late night food outlets, taxi ranks, transport hubs and other 'pinch points'. By encouraging a staggered approach to closing times, it is possible to achieve a steadier dispersal of patrons from town centres, with fewer incidents of disorder and disturbance.
- 10.2. For this reason, the licensing authority will not seek to impose rigid terminal hours on premises in particular areas (a concept known as zoning), which is considered likely to increase the potential for crime, disorder and nuisance. That said, if the authority becomes aware of a proliferation in disorder or nuisance in a particular area linked cumulatively to the operations of licensed premises, it may consider imposing restrictions on opening hours through the use of its various powers, including early morning alcohol restriction orders.
- 10.3. Licensing hours should not inhibit the development of a thriving and safe evening and night time economy. This is important for investment, local employment, tourism and local services associated with the night time economy. Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the licensing objectives and the interests of local residents.
- 10.4. The licensing authority expects that issues relating to licensing hours, and in particular measures to limit the potential for nuisance or disorder arising from later hours of trading, will be addressed by the applicant in their operating schedule.
- 10.5. In addition to their licensable activities, applicants are also expected to set out the proposed opening hours of their premises within their operating schedule. The licensing authority expects these times to be provided for all premises which may be accessed by members of the public, as these will inform the authority, responsible authorities and other persons of the full extent of the operation of the premises, and allow all parties to consider the application and the effect on the licensing objectives fully. The hours given should include all times when the premises may trade to the public (whether licensable activities are being provided or not), when individuals may be present on the premises.
- 10.6. At premises licensed to supply alcohol for consumption on the premises, the licensing authority encourages the inclusion of a 'cooling-off' or 'drinking-up' period between the terminal hour for supplies of alcohol, and the end of other licensable activities, typically of around 20 to 30 minutes. Inclusion of such a measure will ensure patrons have the opportunity to finish their drinks and gather their belongings prior to leaving the premises. This should be indicated within the timings given in the operating schedule for supplies of alcohol and opening hours. Where music is being played, applicants may also wish to consider a slower tempo of music within this period.
- 10.7. Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises throughout the normal hours they intend to open for shopping, unless there are good reasons, based on the licensing objectives, for restricting those hours; for example, a limitation may be appropriate following police representations in the case of shops known to be a focus of disorder and disturbance. Where alcohol hours are shorter than opening hours, premises should ensure that robust systems are in place to prevent the sale of alcohol before or after permitted times.
- 10.8. The licensing authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are more likely to be considered appropriate for the promotion of the public nuisance objective in the case of premises that are situated in predominantly residential areas.

## 11. Licence conditions

- 11.1. The licensing authority will seek to avoid imposing disproportionate conditions on premises. It will only impose conditions that it considers appropriate in order to promote the licensing objectives, and which are in themselves reasonable and proportionate.
- 11.2. Additionally, we will seek to ensure that conditions only pertain to matters which are within the direct control or the sphere of influence of the licence-holder.
- 11.3. When we set conditions, we will follow the SMART methodology, and aim to ensure that the conditions are:
- **Specific** – directly related to the premises and the licensable activities carried on; the condition clearly and unambiguously states what is required of the licence-holder;
  - **Measurable** – that it is possible to confirm whether the condition is being satisfied; if compliance cannot be readily verified, it is likely that a court will rule a condition is unenforceable;
  - **Achievable** – that the licence-holder is able to satisfy the measures required to comply with the requirement: it is not something which is outside his control;
  - **Reasonable** – that the condition does not place unachievable, disproportionate or unrealistic requirements on the licence-holder;
  - **Time-bound** – where appropriate (for example, if substantial new equipment will have to be purchased and installed) a time period will be stated for the licence-holder to achieve compliance with the requirement.
- 11.4. We will also have regard to the work undertaken by the Institute of Licensing with regards licence conditions, and any guidelines that they issue.<sup>8</sup>
- 11.5. Lengthy lists of licence conditions are not viewed as particularly desirable, as they make it difficult for licence-holders and regulators alike to readily verify compliance with the licence. Where the authority is of the opinion that a substantial number of conditions are needed, consideration should be given firstly to whether the applicant is a suitable person to hold a licence, given that the effect of the numerous conditions will be to micromanage his business. In such circumstances, the authority must consider whether refusal of a licence would be a more appropriate decision to take.

### Conditions on premises licences

- 11.6. Conditions on premises licences will fall into one of three categories, and will be contained in one of three annexes to the licence:
- Annex 1 contains mandatory conditions, which licensing authorities are required to add to licences if certain conditions are met. Mandatory conditions are all transposed directly from the legislation, and the authority may not modify or disapply these conditions.
  - Annex 2 contains conditions consistent with the operating schedule. These conditions will be compiled by the authority's officers (even if a case was ultimately determined by a Committee) based on the measures set out by the applicant within their operating schedule, including any modifications volunteered by the applicant following discussions with the licensing authority, responsible authorities, or other persons. When compiling conditions in this annex, the authority will not simply reproduce the operating schedule, but will convert the measures it contains into a number of clear, relevant and enforceable conditions.

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<sup>8</sup> [http://www.instituteoflicensing.org/content.aspx?page=GUIDANCE\\_ON\\_PREMISES\\_LICENCE\\_CONDITIONS](http://www.instituteoflicensing.org/content.aspx?page=GUIDANCE_ON_PREMISES_LICENCE_CONDITIONS)

- Annex 3 contains any other conditions imposed by a licensing committee when it determines an application. These conditions comprise any requirements over and above the operating schedule that a committee decided were appropriate to promote the licensing objectives, when they determined the application.

11.7. The mandatory conditions are prescribed in legislation, and are subject to periodic change. The licensing authority has adopted an approach of not replacing licences following every change, but rather making amendments when the licence is next returned to the authority for amendment. A full schedule of the current mandatory conditions will be maintained on our website. Licence-holders should be aware that mandatory conditions will apply to their licence, even if they are not printed upon it, and as such are encouraged to periodically check for updates to the current conditions.

11.8. Licensing authorities may not impose conditions which restrict the nature, content or manner of performances of plays provided under a premises licence, save to ensure the safety of the public.

### **Conditions on club premises certificates**

11.9. Club premises certificates will generally be subject to similar conditions to premises licences, and the provisions set out above will apply equally to authorisations of this type.

11.10. The licensing authority notes that it may not impose a condition which prevents the sale of alcohol or the provision of regulated entertainment to associate members and their guests, where the club rules provide for such.

### **Conditions on temporary event notices**

11.11. Where an objection notice is received in respect of a standard temporary event notice and neither is withdrawn, the licensing authority is obliged to conduct an evidentiary hearing into the proposed event and the objections raised by a responsible authority. At the end of the hearing, the authority must decide whether it is appropriate for the promotion of the licensing objectives to issue a counter-notice, which has the effect of cancelling the authorisation to carry on licensable activities conveyed by the temporary event notice.

11.12. Where the authority has decided not to issue a counter-notice, and the temporary event notice is in respect of premises authorised by a premises licence or club premises certificate, the licensing authority may resolve to bring forward conditions from the licence or certificate and impose them upon the temporary event notice, if it considers this appropriate for the promotion of the licensing objectives.

11.13. Any conditions brought forward will be replicated in the same form as used on the licence or certificate, and will be imposed only if they address issues raised within objection notices given to the authority. The authority will not utilise this power to condition or restrict aspects of the event which are not referenced within an objection notice or supplementary representations.

11.14. If the licensing authority is of the opinion that an event should not proceed, it will issue a counter-notice. The power to impose conditions will not be utilised to impose conditions which are inconsistent with the proposed event, or which are impossible for the premises user to comply with.

11.15. The licensing authority understands that it has no other power to impose conditions on temporary event notices. Undertakings agreed between a premises user and a responsible authority to resolve objections to a notice are unenforceable, and are therefore discouraged.

## 12. Enforcement

- 12.1. Licensing authorities are required to state the principles to be applied by the authority in exercising enforcement functions under the Act, both in terms of the inspection of premises and in instituting criminal proceedings in respect of specified offences.
- 12.2. The licensing authority will be led by the Guidance in respect of the inspection of premises and the powers to institute criminal proceedings, and will endeavour to ensure that enforcement and compliance actions are:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
  - **Consistent:** rules and standards must be joined up and implemented fairly;
  - **Transparent:** regulators should be open, and keep regulations simple and user friendly;
  - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 12.3. The licensing authority may arrange for the inspection of premises, both licensed and otherwise, in response to specific complaints about those premises and the provision of unauthorised licensable activities therein. The licensing authority may also, from time to time, arrange a programme of risk-based inspections of licensed premises, consistent with the principles expressed throughout this document. Should officers witness offences or breaches of an authorisation during an inspection, appropriate action will be taken.
- 12.4. The licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.
- 12.5. In addition to this statement of principles, the licensing authority also maintains a licensing enforcement policy, setting out further details of our methodologies. This can be viewed via our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing), or a copy obtained by contacting us using the details given in Annex C. The licensing authority shall also have regard to any corporate enforcement policy published by Dacorum Borough Council.
- 12.6. Where the power to make representations or initiate reviews on behalf of the licensing authority is utilised, proper separation of functions will be ensured by having different officers conduct the different functions (for example, if a licensing enforcement officer makes a representation, they will have no involvement in the administration of the application itself).
- 12.7. A number of licence-holders with multiple outlets have formed primary authority partnerships, under which they receive 'assured advice' from a single local authority in respect of one or more regulated aspects of their business – for example, preventing underage sales of age-restricted products. Where we have concerns around a premises whose operator has formed a primary authority partnership relevant to the issue in question, we will consult with the primary authority prior to taking any formal action.



## 13. Exchange of information

- 13.1. From time to time, licensing authorities are required to exchange information with other bodies – whether this be the Government for the purpose of official statistics, responsible authorities and other statutory bodies in respect of intelligence about possible breaches of licence conditions or legislative requirements, or other persons following requests under data disclosure laws.
- 13.2. The principle that this licensing authority applies is that it will act in accordance with the provisions of applicable legislation when exchanging information, which includes the provision that the Data Protection Act 1998 will not be contravened.
- 13.3. Should any protocols be established as regards information exchange with other bodies then details will be made available via our website, and incorporated into a future revision of this document.
- 13.4. Where required by law applicants will receive copies of any representations made in respect of their application, although sensitive or personal information not required to be disclosed will usually be redacted.

## 14. Digital services

- 14.1. We will carry out our functions with regard to the EU Services Directive and the Provision of Services Regulations 2009, which give effect to the Directive within the UK. In particular we will:
  - provide clear and concise guidance on our website explaining what activities licences and permissions are required for, how they can be obtained and how we will consider applications for such,
  - encourage applications for licences which are in scope of the Directive to be made online via our electronic application facility,
  - apply the same considerations and requirements to applications from applicants based in EEA member states other than the UK as we do for UK-based applicants.
- 14.2. Almost every type of application under the Act can be made online via our website, [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing). The exceptions to this are applications for personal licences, and for reviews of premises licences and club premises certificates, which must be made using a paper application form.

# Part B: Further considerations



## 15. Cumulative impact

- 15.1. Cumulative impact is the term used to describe the impact, potential or actual, of a large number of licensed premises concentrated in a single locality. In terms of the licensing objectives, this may be evidenced by an increase in incidents of crime, disorder or public nuisance, over and above the impact of the individual premises themselves.
- 15.2. The cumulative impact of licensed premises on the promotion of any of the licensing objectives is a matter that the licensing authority can take into account in determining its licensing policy. This should not, however, be confused with any question of 'need' which relates to the commercial demand for a particular type of premises (for example, a pub, restaurant or hotel). The issue of 'need' is a matter for market forces to influence and for the planning authority to regulate, and so does not form part of this policy statement.
- 15.3. The licensing authority will not seek to introduce quotas of licensed premises, nor will it seek to impose general limitations on trading hours in particular areas. Instead, consideration will be given to the individual characteristics of the premises concerned within a given area. It is recognised that a wide variety of venues sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.
- 15.4. The licensing authority notes that, in accordance with the Guidance, it may adopt a special policy in response to a cumulative impact issue in a defined area. Consideration of such a policy may be prompted by submissions from responsible authorities or other persons, evidenced appropriately and linked to one or more of the licensing objectives. Where such a policy has been adopted, the issue of cumulative impact can be taken into account when considering the individual merits of any application within the area defined within that policy. Further details regarding this power are given in the special licensing policies section of this Statement.
- 15.5. When dealing with cumulative impact issues, the licensing authority recognises that, as well as licensing functions, there are a number of other mechanisms for addressing issues of nuisance, disorder and anti-social behaviour occurring away from licensed premises. These may include:-
- planning controls;
  - measures to provide a safer and cleaner environment in partnership with local businesses, transport operators and other departments of the Council;
  - the provision of CCTV surveillance in town centres, taxi ranks, street cleaning and litter patrols;
  - powers for a local authority to protect public spaces from the effects of anti-social consumption of alcohol, enabling police and accredited persons to confiscate alcohol;
  - enforcement of the law relating to disorder and anti-social behaviour, including the issue of fixed penalty notices or other sanctions under the Anti-Social Behaviour, Crime and Policing Act 2014;
  - the prosecution of any personal licence holder or member of staff at licensed premises who is selling alcohol to children or people who are drunk;
  - powers to close down instantly any premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from premises causing a nuisance;
  - the power for responsible authorities or other persons to apply for a review of a premises licence or club premises certificate; or
  - other local initiatives that similarly address these problems.
- 15.6. The licensing authority will also monitor and address such issues through engagement in the Dacorum Community Safety Partnership.

## 16. Security

- 16.1. Under a mandatory licence condition, any person engaged to work at licensed premises who is carrying out a prescribed security activity, as specified under the Private Security Industry Act 2001, must be correctly licensed to carry out that function by the Security Industry Authority, or otherwise authorised under an approved contractor scheme or similar.
- 16.2. The licensing authority will expect applicants for licences to consider whether they may need to employ security personnel when compiling their operating schedules. This expectation will not just apply to premises licensed for the supply and consumption of alcohol, but any premises which may potentially experience disorder.
- 16.3. Premises which are licensed for the supply of late night refreshment, located either in town centre locations or on primary dispersal routes from such locations, and which cater primarily for the night-time economy may in particular need to consider whether security personnel will be necessary, both to safeguard their premises against damage, and to prevent outbreaks of disorder among customers who may be intoxicated.
- 16.4. Where a premises experiences regular incidents of disorder and does not employ security personnel to guard against this, the licensing authority may consider the imposition of licence conditions mandating their provision, on receipt of an application to review a licence.
- 16.5. Where a premises has a policy of searching patrons prior to entry, searches should only be carried out by security personnel of the same gender as the customer who is being searched. This will mean that such premises will need to employ a minimum of one male and one female door supervisor.

### CCTV

- 16.6. The licensing authority will have regard to the Surveillance Camera Code of Practice<sup>9</sup>, in particular paragraph 1.15, which highlights that the blanket imposition of licence conditions requiring CCTV systems to be operated in licensed premises without strong justification would be contrary to the first principle of the code. The imposition of CCTV conditions will, like all other matters relating to authorisations under the Act, be considered on a case-by-case basis, taking into account the circumstances and individual merits of the case in question. The licensing authority may still impose conditions requiring the operation of CCTV, if it is considered necessary to meet an identified pressing need and for a specified purpose, in addition to being appropriate for the promotion of one or more of the licensing objectives.
- 16.7. In the absence of a condition requiring it, it will be for the licence-holder to decide whether to operate a CCTV system in their premises. The Code of Practice, while binding on public authorities, is voluntary for private operators, although adherence to the principles therein is encouraged.
- 16.8. Where CCTV is in use in licensed premises, the licensing authority will expect its use to comply with the provisions of the Data Protection Act. In particular, this will mean that:
- the licence-holder must register with the Information Commissioner as a Data Controller,
  - clear signage is displayed advising of the usage of CCTV,
  - the CCTV is under the control of and accessible only by management and supervisory staff, who are conversant in its usage,
  - the licence-holder has a clear policy on the retention of recorded images, and disposes of them

<sup>9</sup> <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice> (June 2013)

after a set period (typically around 28 days) unless an incident is reported.

16.9. To ensure the most effective use of CCTV, it is also encouraged that:

- the date and time on the system is correctly set,
- the system is kept operational at all times while the premises are open to the public,
- there is camera coverage of the key parts of the premises, including all entrances/exits, bars, checkouts and dancefloors,
- where recordings are required by police to assist in an investigation, that these can be accessed and supplied within a reasonable period – a maximum of 24 hours from receipt of a request is suggested.

16.10. Hertfordshire Constabulary's crime prevention officers can offer advice on the installation and setup of CCTV systems to ensure best evidential quality.

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## 17. Drugs and new psychoactive substances

- 17.1. The licensing authority expects all licensed premises to adopt suitable measures to detect and discourage persons from using controlled drugs (which for the purposes of this section means substances which are proscribed under the Misuse of Drugs Act 1971) while on those premises. Examples of such measures may include, but are not limited to, the following:
- Ensuring a highly visible staff presence throughout the premises,
  - Regular checks by staff of ancillary areas such as lobbies, toilets, cloakrooms and corridors,
  - Redesigning toilet facilities to remove horizontal surfaces, and niches and other areas where illicit items could be concealed,
  - Ensuring that all staff, and door staff in particular, are trained to recognise visible signs that a person is under the influence of an illegal substance, and to refuse such persons entry to the premises,
  - Operating robust 'search on entry' policies, with procedures in place to confiscate controlled drugs found during searches and hand these to police at the earliest opportunity,
  - Carrying out testing on surfaces within the premises to detect the presence of traces of controlled drugs,
  - Enforcing a zero tolerance policy to the use or supply of controlled drugs within the premises, ejecting or refusing entry to persons known to be linked to the use or supply of controlled drugs, and reporting to the police any person suspected of supplying controlled drugs.
- 17.2. Where a licence-holder believes that there may be an issue with the illegal use or supply of controlled drugs within their premises, they are strongly encouraged to contact Hertfordshire Constabulary for advice and assistance in remedying that issue. This may involve a degree of 'target hardening' – redesigning parts of the premises or operating procedures to more easily detect and discourage such practices. Where premises are co-operating with the police to deal with such issues, the licensing authority is less likely to take action to remove or restrict the licence, than it would with premises which do not offer co-operation.
- 17.3. For the purposes of this part of the policy, the licensing authority will regard new psychoactive substances (widely referred to as 'legal highs') in the same way as it does controlled drugs, and will expect that the measures taken in licensed premises to detect and discourage the use of controlled drugs will also extend to these substances, which generally mimic the effect of a controlled drug.
- 17.4. The licensing authority expects that licensed premises will not engage in, sanction nor condone the sale or supply of new psychoactive substances in or from their premises, and may seek to take enforcement action against premises that are found to be doing so.
- 17.5. The licensing authority recognises that Government has committed to strengthening the legislation around the supply and use of new psychoactive substances and welcomes such moves.

## 18. Public health

- 18.1. The Director for Public Health in Hertfordshire is a responsible authority under the Act, and may make representations in respect of applications for premises licences and club premises certificates, and apply to review licences and certificates.
- 18.2. At the time of writing, there is no licensing objective correlating purely to public health, and as such any representations or applications made by the Director for Public Health must be predicated upon one or more of the current licensing objectives. Representations relating solely to public health issues are not relevant under the Act.
- 18.3. The licensing authority will work with the Director of Public Health and his staff in order to identify and utilise relevant public health data within the licensing process. In particular, the authority may seek to rely upon public health data if it considers the introduction of a special licensing policy, such as a cumulative impact policy or an early morning alcohol restriction order.
- 18.4. Public Health may also hold (or have access to) health data concerning individual premises – for example, ‘Cardiff model’ data of alcohol-related admissions to hospital emergency departments. Such data may be of particular use to the licensing authority when it considers an application for review of an existing licence or certificate, and the licensing authority encourages responsible authorities who are bringing reviews to liaise with Public Health and examine whether any such data supports, or conflicts with, the grounds on which a review has been brought.
- 18.5. The licensing authority notes that there are limitations to such data – for example, the Cardiff model generally only specifies the last premises attended by a casualty, and may not detail any other premises where they consumed alcohol earlier in the evening, or any alcohol consumed at home (a practice widely known as ‘pre-loading’). For this reason, the licensing authority will carefully examine any such data presented in support of a representation or review. It is considered unlikely that action will be taken based solely on Cardiff model data – however, such data may act to reinforce other evidence presented in respect of a particular case, or may be indicative of an issue in a particular area requiring further investigation.
- 18.6. Health data relating to alcohol consumption by children will also be considered carefully by the authority, as it may indicate a particular geographic area where children are gaining access to alcohol. Such data may be correlated with complaints and reports of underage sales to inform and influence future enforcement operations undertaken by the licensing authority and responsible authorities.

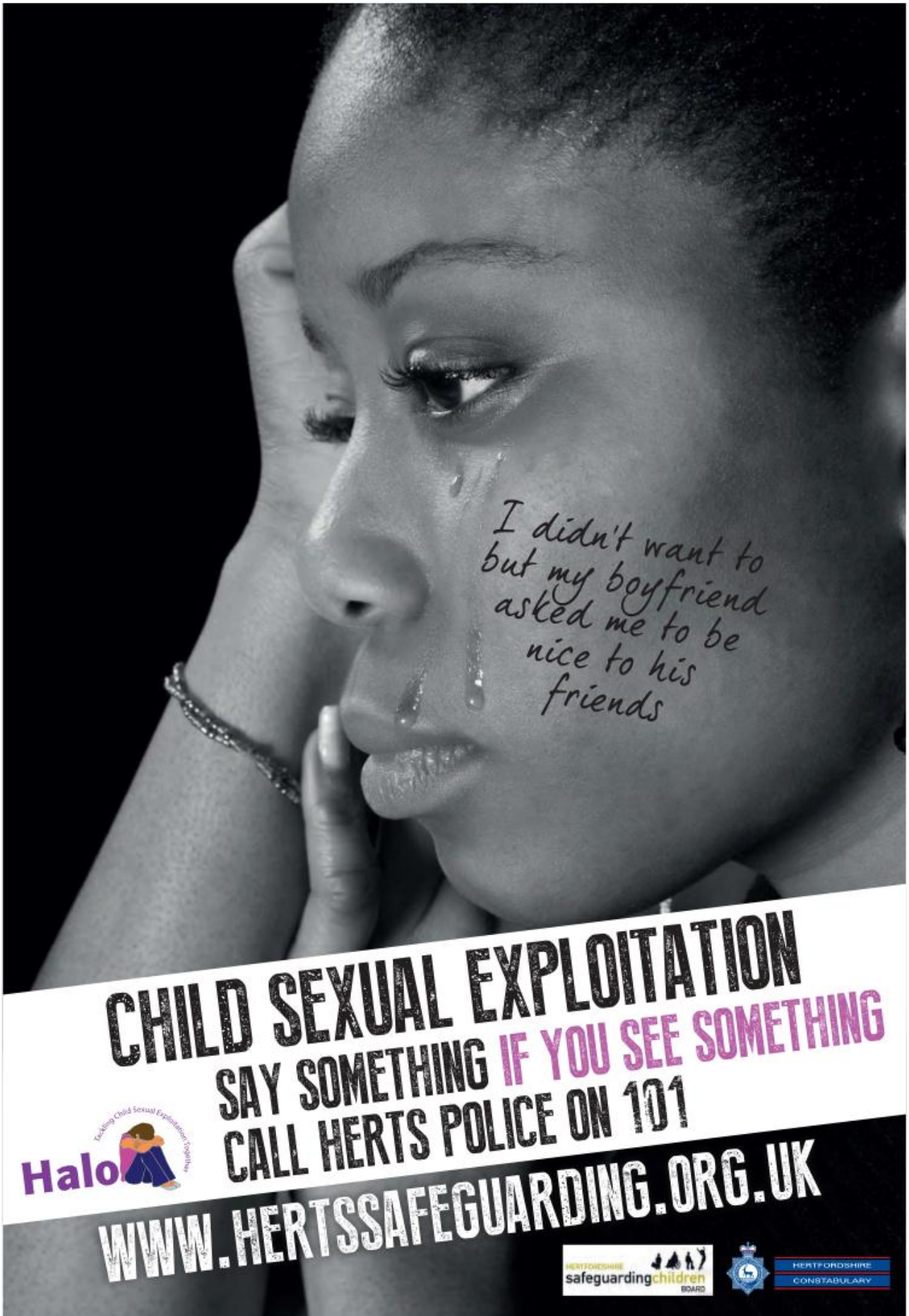
## 19. Child sexual exploitation

- 19.1. High-profile cases around the UK have acted to highlight the potential links between victims of child sexual exploitation and licensed premises. As licensing authorities have a statutory duty to ensure the protection of children from harm through the exercise of their licensing functions, it is important that licence-holders are aware of the potential for premises to be used by persons who are exploiting children for sexual purposes, and take appropriate measures to detect and discourage this.
- 19.2. Child sexual exploitation generally involves a young person being encouraged, coerced or forced into participating in a sexual relationship or activity by an adult. It frequently involves the victim being offered something in exchange for this, such as money, gifts, food, alcohol, cigarettes, drugs, involvement in adult situations, or sometimes just attention. Victims may have been subject to a grooming process lasting for weeks, months or years.
- 19.3. There is no single model of sexual exploitation – different cases will all have different circumstances. Similarly victims will not all come from the same mould – while some victims may have had troubled backgrounds, others may come from prosperous and loving families.
- 19.4. There are a number of indicators which may indicate possible child sexual exploitation. These include, but are not limited to:
- relationships which develop between a child and an adult;
  - children accompanied by a group of unrelated adults;
  - children regularly attending premises and meeting with a number of different adults, particularly if alcohol is being purchased for the child;
  - children outside of licensed premises who develop relationships with adults, particularly if alcohol is being purchased for the child;
  - children leaving the premises with unrelated adults, particularly with a group of adults;
  - children looking uncomfortable in the company of or leaving the premises with adults, or groups of adults.
- 19.5. It must be stated that not every instance of the behaviours listed above will indicate exploitation, and many interactions between children and adults will be perfectly innocent. However, if staff at licensed premises have reasonable grounds for suspicion (for example, if the child does not appear to know the adults they are with, or appears distressed) then they should be urged to report this.
- 19.6. The licensing authority expects licence-holders and applicants for new licences to be aware of the possibility of child sexual exploitation taking place in or around licensed premises, and to adopt suitable protective measures to assist in the detection and reporting of incidents of this. These may include:
- inclusion of child sexual exploitation issues within training programs for new and existing staff,
  - written management procedures for identifying and reporting suspicious behaviour to police,
  - frequent monitoring of all areas of the premises and immediate vicinity, including external areas, to detect behaviours of the types listed above.
- 19.7. Hertfordshire Safeguarding Children Board, in conjunction with Hertfordshire Constabulary, has produced information packs<sup>10</sup>, containing further relevant guidance to the management and staff of licensed premises, and of hotels. The licensing authority strongly recommends that licensed premises use these packs to raise awareness of child sexual exploitation among staff, and to formulate protocols for reporting any suspect behaviour, observed by their staff.

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<sup>10</sup> <http://www.hertsdirect.org/services/healthsoc/childfam/childprotection/hertssafboard/childexplo/>





*I didn't want to  
but my boyfriend  
asked me to be  
nice to his  
friends*

# CHILD SEXUAL EXPLOITATION

**SAY SOMETHING** IF YOU SEE SOMETHING  
**CALL HERTS POLICE ON 101**



**WWW.HERTSSAFEGUARDING.ORG.UK**



HERTFORDSHIRE  
CONSTABULARY

## 20. Film classifications

- 20.1. Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the licensing authority. Where recommendations have been made by both bodies, and the licensing authority has notified licence-holders of this, the licensing authority's recommendation will take precedence.
- 20.2. For the purposes of sections 20 and 74 of the Act, the licensing authority recognises the British Board of Film Classification (BBFC) as the film classification body, and will specify this body within the licences and certificates it issues.
- 20.3. The licensing authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or licensing authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 20.4. Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a licensing authority recommendation should be displayed at or near the entrance to the screening.
- 20.5. The licensing authority anticipates that the BBFC's recommendations will apply to the vast majority of films shown at licensed premises within the borough. However in a small number of cases, the licensing authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the borough. Such situations can be approximately characterised in one of three groups:
- In cases where the licensing authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
  - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
  - In cases where the licensing authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 20.6. The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The licensing authority is aware that some cinemas across the country have agreed schemes whereby the applicable licensing authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and very young children to special screenings of that film with only parents of such children in attendance.
- 20.7. It is recommended that any premises considering the provision of such screenings contacts the licensing authority to discuss the proposals firstly. The authority will typically expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.

## Issue of recommendations by the authority

- 20.8. When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, it is proposed that the authority will adhere to the BBFC's Classification Guidelines ([www.bbfc.co.uk/whatclassification/guidelines](http://www.bbfc.co.uk/whatclassification/guidelines)), and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 20.9. In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the licensing authority.

## Alternate recommendations for parent and baby screenings

- 20.10. Where the licensing authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Issues will be assessed on a film-by-film basis, but it is anticipated that scenes of strong violence and gore, sex and strong threat will lead to greater concern around viewing by children of that age than strong language, mild nudity and discriminatory content will.
- 20.11. Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

## 21. Outdoor events

- 21.1. The licensing authority recognises the contribution that well-run outdoor events bring to local communities, and is pleased to support events which are run in a manner that will promote the licensing objectives.
- 21.2. The organisation of outdoor events of any size is a significant undertaking, with a multitude of issues which must be taken into account. Licensing is only one aspect of the regulation and control of such events.
- 21.3. Generally we would expect the organisers of all outdoor events to follow the advice contained in the “Purple Guide”<sup>11</sup> when planning their event. This document contains guidance written by and for the events industry in respect of safety and welfare aspects of event management, and replaced earlier guidance issued by the Health and Safety Executive.
- 21.4. For larger events, taking place under the authority of premises licences, it is recommended that organisers consider engaging professional advice and assistance, particularly with regards to issues which may affect public safety.
- 21.5. The authority will also expect the organisers of any large events (taking place under the authority of a premises licence) or events which include special risk factors to consult the Dacorum Safety Advisory Group while planning their event, and to implement any reasonable recommendations made by the group. The safety advisory group is a multi-agency body, which includes representatives of the licensing authority, responsible authorities and other statutory bodies who have involvement in the organisation and safe running of events.
- 21.6. Prior to applying for a licence, event organisers will need to secure permission from the appropriate landowner for the site on which they intend to hold their event. In the case of public land for which the Council is responsible for managing, including parks and common land, approaches should be made to the Outdoor Recreation Officer, within the Council’s Estate department.
- 21.7. One of the major concerns arising from outdoor events is disturbance to local residents from noise associated with music entertainment at the event, or other noisy equipment such as generators, public announcement systems, fireworks, and so on. The licensing authority will expect to receive a comprehensive operating schedule from licence applicants, containing appropriate proposals to control such issues and promote the public nuisance licensing objective.

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<sup>11</sup> [www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk)

## 22. Other relevant considerations

- 22.1. Licensed premises are subject to many statutory requirements including fire safety, trading standards, food hygiene, health and safety, and planning. These different regulatory systems will be properly separated as described in the Guidance.
- 22.2. In addition, section 17 of the Crime and Disorder Act 1998 requires the Council when exercising its functions to do all it reasonably can to prevent crime and disorder.
- 22.3. By consulting widely prior to this policy statement being published the licensing authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.
- 22.4. Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their operating schedule.
- 22.5. There are a number of wider issues which may need to be given due consideration when dealing with applications. The licensing authority may, when appropriate, receive reports on:
- the needs of the local tourist economy;
  - the cultural strategy for the area;
  - the employment situation in the area and the need for new investment and employment opportunities where appropriate;
  - planning considerations which might affect licensed premises

### **Live music, dance and theatre**

- 22.6. The licensing authority will monitor the impact of its licensing decisions on the provision of regulated entertainment within the Borough, and particularly live music, dancing and plays.
- 22.7. Many events which consist solely of these activities will now fall outside of licensing requirements, following recent deregulation.
- 22.8. The licensing authority is aware of the Covenant on Economic, Social and Cultural Rights and the requirements of Article 15 which require that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. Care will be taken to ensure that only appropriate, proportionate and reasonable licensing conditions impose any restriction on these events.
- 22.9. Account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration will be balanced against the wider benefits to the community of these activities.
- 22.10. When attaching conditions the licensing authority will generally seek to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature. However the licensing authority notes that on occasion it may have no choice but to impose such requirements in order to safeguard the licensing objectives – for example, requiring the installation of safety equipment to ensure the safety of persons attending an entertainment performance.

## **Transport**

22.11. Where any protocols agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which could lead to disorder and disturbance, the licensing authority will inform and work with local transport providers to reduce the potential for problems to occur.

22.12. At present no issues have been identified with regard to transport and the dispersal of people from the town centres. The licensing authority will continue to liaise with the local police and licence-holders to review the transport situation and to report its findings.

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# Part C: Other regulatory controls



## 23. Special licensing policies

23.1. There are several types of special licensing policy which a licensing authority is entitled to adopt, to help it regulate the provision of licensable activities within its area.

### Cumulative impact policies

23.2. The authority may adopt a special policy, known as a cumulative impact policy, if it is satisfied that there is an adverse impact on one or more of the licensing objectives as a result of a significant number of licensed premises being concentrated in a defined locality. The effect of this impact will be, for example, a spike in incidents of crime, disorder or nuisance over and above what can be attributed to the operation of the individual premises.

23.3. By adopting a cumulative impact policy, a licensing authority creates a rebuttable presumption that future licence applications for premises within the area defined in the policy will be refused, unless applicants can demonstrate conclusively that their proposals will not adversely affect the issues being experienced. Policies may relate to any licensable activity, although the supply of alcohol is the most common subject of policies adopted nationwide.

23.4. Where a cumulative impact policy is adopted, the licensing authority's discretion to consider the rejection of an application is only engaged upon the receipt of relevant representations. In the absence of such representations, the duty to grant a licence in the terms applied for remains unchanged.

23.5. In determining whether to adopt a special policy for a particular area the licensing authority will:

- identify evidence of concerns about relating to a licensing objective;
- consider whether the evidence demonstrates that a cumulative impact caused by the customers of multiple licensed premises is adversely affecting a licensing objective;
- identify the precise area(s) where issues are occurring;
- undertake a public consultation on the proposed policy; and
- include and publish details of any special policy within this policy statement.

23.6. Having considered the available evidence, the licensing authority considers that there is no particular part of Dacorum experiencing cumulative impact on the promotion of any of the licensing objectives, at the present time, which would warrant the introduction of a cumulative impact policy.

23.7. The licensing authority will continue to monitor the entirety of the Borough for issues relating to cumulative impact, in conjunction with the responsible authorities and other members of the Dacorum Community Safety Partnership. Should evidence of a cumulative impact issue emerge during the validity of this policy, the licensing authority may look to adopt a cumulative impact policy by way of an interim revision.

### Early morning alcohol restriction orders (EMARO's)

23.8. To promote the licensing objectives, a licensing authority may utilise powers under the Act to pass an early morning alcohol restriction order. Such an order would prohibit the sale of alcohol from any premises within an area defined in the order between specified times (which may extend from midnight until 6 a.m.) on specified days.

23.9. It is envisaged that this power will only be used in response to severe and recurring issues arising



from the supply of alcohol in the night-time economy, such as high levels of alcohol-related crime and disorder in specific areas at specific times, which cannot be attributed to an individual premises. The licensing authority views this as a 'last resort' option, for use after other tools have been unsuccessful in remedying the issue.

23.10. At the present time, Dacorum has not utilised the provisions of the Act to pass an early morning alcohol restriction order, and has no current plans to do so. Should this position change, full details will be published on our website and notified to all licensed premises that would be affected.

## **Late night levy**

23.11. Part 2 of the Police Reform and Social Responsibility Act 2011 introduced a new power for licensing authorities to establish a 'late night levy'. Licensed premises within the area of a licensing authority which has adopted such a requirement will be required to pay an additional annual fee if they are licensed to supply alcohol within a late night period set by the authority (generally between midnight and 6 a.m., although shorter periods are permissible).

23.12. Where a levy requirement has been adopted, the licensing authority will be responsible for the collection of the appropriate amounts from licence-holders. After deduction of administration costs, not less than 70% of the net proceeds of the levy must be paid by the licensing authority to the local police force, which may be used (but is not required to be) to offset the costs incurred in policing the night time economy arising from the alcohol supplies permitted from affected licensed premises. The remaining amount may only be applied on purposes prescribed in Regulations, namely arrangements connected with the late night supply of alcohol for one or more of the following functions:

- The reduction or prevention of crime and disorder
- The promotion of public safety
- The reduction or prevention of public nuisance
- The cleaning of any relevant highway or relevant land in its area.

23.13. At the time of writing, Dacorum has not adopted the provisions of the 2011 Act relating to a late night levy, nor is it currently intended to do so.

## 24. Public space protection orders

- 24.1. Under the Anti-Social Behaviour, Crime and Policing Act 2014, local authorities may make orders to protect public spaces from specified forms of nuisance, including anti-social behaviour arising from the consumption of alcohol, which has or is likely to have a detrimental effect on the quality of life of those in the vicinity. This power replaced that under previous legislation for the creation of designated public place orders (DPPO's).
- 24.2. Where a public space protection order has effect and includes provisions relating to the consumption of alcohol, any person who is consuming alcohol in a street or public place which is within the area covered by that order must cease drinking if requested to do so by a police officer or an authorised person, and surrender any alcohol for disposal. It is a criminal offence to fail to comply with the instructions of a police officer or authorised person in this respect, and may result in a fixed penalty notice being issued, or arrest and prosecution.
- 24.3. A public space protection order will not apply to any premises within a specified area at which alcohol may be supplied and consumed under the authority of a premises licence or a club premises certificate, or at which a temporary event notice authorising the supply of alcohol is currently active or was active no more than 30 minutes previously.
- 24.4. Details of any such orders adopted by the Council will be published on our website.<sup>12</sup>
- 24.5. Dacorum has previously adopted a number of DPPO's in response to issues around street drinking, which will continue to have effect for a limited time ahead of a review process. Following a review, the authority may replace these orders with a new public space protection order, or extinguish them.

## 25. Fire safety

- 25.1. The primary legislation in respect of fire safety in commercial premises is the Regulatory Reform (Fire Safety) Order 2005, which is enforced by fire and rescue authorities.
- 25.2. The licensing authority will seek to avoid duplication with this regulatory regime when exercising its licensing powers. In particular, we will not seek to attach conditions to licences and certificates which duplicate requirements under the Order, nor will we impose conditions which limit capacity within a licensed premises on fire safety grounds, although we may continue to set capacity limits if this is considered appropriate on another public safety ground.
- 25.3. The licensing authority expects all premises licence and club premises certificate holders to adhere fully to the requirements of the Order, in particular with regard to ensuring that a suitable fire risk assessment has been undertaken and any applicable measures implemented. We will work closely with Hertfordshire Fire & Rescue Service in this respect, as failure to fully adhere to fire safety legislation may be indicative of a more systemic management failure to promote the licensing objectives.
- 25.4. The fire and rescue authority is a responsible authority and can make representations on licensing applications. It can, however, only make representations which relate to one or more of the licensing objectives, and not solely based on a failure to adhere to fire safety legislative requirements.

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<sup>12</sup> For alcohol-related orders, see [www.dacorum.gov.uk/home/environment-street-care/licensing/alcohol-entertainment-licensing/statement-of-licensing-policy/special-licensing-policies](http://www.dacorum.gov.uk/home/environment-street-care/licensing/alcohol-entertainment-licensing/statement-of-licensing-policy/special-licensing-policies)

## 26. Planning and building control

- 26.1. The planning and licensing regimes involve the consideration of different (albeit partly-related) matters. For instance licensing considers public nuisance whereas planning considers amenity. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the Council's Development Control Committee – the licensing authority is not bound by the decisions made by the planning authority, and vice versa.
- 26.2. The granting by the licensing authority of a licence or a variation thereof, which involves a material alteration to a building, would not relieve the applicant of the need to apply for planning permission or building control approval where appropriate. In particular, where licensable activities are proposed to be carried on at listed buildings, no works should be undertaken without first applying to the Local Planning Authority for listed building consent, where required.
- 26.3. There are also circumstances when, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different from the permitted licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of either their planning or licensing permissions would be liable to enforcement action under the applicable legislation.
- 26.4. The planning, building control and licensing regimes of the licensing authority will be properly separated to avoid duplication. Normally applications for premises licences for permanent commercial premises will be from businesses with planning consent for the premises concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority, or simultaneously.
- 26.5. The planning authority is a responsible authority and can make representations on licensing applications. It can, however, only make representations which relate to one or more of the licensing objectives, and are not solely based on a failure to adhere to planning or building control legislative requirements
- 26.6. The Council as a planning authority has adopted planning policies which relate to planning concerns, including the development and use of buildings and land. They contain criteria related to such matters as the size of premises and the use of premises, rather than to individual licensable activities.
- 26.7. Planning remains the regime that is concerned with the development of premises and their overall use. Licensing is directed at individual licensable activities and their management. The granting of planning permission for a premises or a finding that premises enjoy lawful use, will not prevent the licensing authority from considering in detail the licensable activities, their management and conditions appropriate to them.
- 26.8. The Council regards licensing as a key means of controlling nuisance and anti-social behaviour and part of the holistic approach to the management of the evening and night time economy.

## 27. Promotion of equality

27.1. The licensing authority recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different characteristics. The 2010 Act provides for a number of protected characteristics, as follows:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

27.2. The licensing authority expects that licensed premises will not discriminate against any person based solely on any of these characteristics – for example, refusing a person entry to a licensed premises on the basis of their race, gender or age.

27.3. The sole exception to this will be where such action is necessary to comply with legal requirements or licence conditions, particularly in respect of ensuring an individual's age in situations where licence-holders must restrict access to age-restricted goods or services to any person who is below the legal age for that good or service – for example, the sale of alcohol to under-18's, or admission of under 15's or under 18's to a film with a '15' or '18' certificate.

27.4. The licensing authority will also expect member's clubs to ensure that their membership rules do result in discrimination against a person on the basis of a protected characteristic – for example, maintaining different membership classes for persons of different genders.

## 28. Copyright restrictions

- 28.1. Premises which play music or exhibit films under the authority of a licence issued by Dacorum will need to ensure that they are not infringing upon the copyright of the creators, publishers or distributors of the applicable content, and hold appropriate permission authorising the commercial or public use of the songs or films in question. Premises licences, club premises certificates, and temporary event notices only authorise the physical act of playing music or exhibiting films in the presence of an audience, and do not convey any entitlement under copyright law.
- 28.2. It is beyond the remit of this document to provide a full breakdown of copyright laws. However, in essence, the vast majority of films and music purchased from consumer outlets are typically licensed for non-commercial private (or home) use only. Use for any other purpose, such as exhibition to an audience or use in conjunction with a commercial enterprise will not typically be compatible with the terms of the licence granted upon purchasing the music or video recording.
- 28.3. There may be several persons or bodies with legitimate copyright claims to every film or piece of music – for example, claims in respect of a recording of a song may be enforced by the singer, the songwriter, the producer and the publisher, as a minimum. Securing individual permissions from every such person would be a complex and costly undertaking. However, many copyright holders are represented by a smaller number of copyright collection societies or distributors, who often issue annual licences covering every song or film in their catalogues. These include:
- For music:
    - Performing Rights Society (PRS) – [www.prsformusic.com](http://www.prsformusic.com)
    - Phonographic Performance Ltd (PPL) – [www.ppluk.com](http://www.ppluk.com)
  - For films:
    - British Film Institute (BFI) – [www.bfi.org.uk/distribution/](http://www.bfi.org.uk/distribution/)
    - Filmbank Distributors – [www.filmbank.co.uk](http://www.filmbank.co.uk)
    - Motion Picture Licensing Company – [www.themplc.co.uk](http://www.themplc.co.uk)
- 28.4. The licensing authority expects premises licence and club premises certificate holders to ensure that they are correctly authorised by all relevant copyright holders or collection societies for every song played or film exhibited at licensed premises. The authority may be legally required to provide details of licences and licence-holders to rights-holders for use in legal proceedings in respect of copyright infringement.
- 28.5. Copyright restrictions also affect another activity frequently provided at licensed premises – the showing of televised sporting events. Although this activity will not typically require authorisation from the licensing authority (unless the original broadcast is recorded for later exhibition), licence-holders showing such broadcasts should ensure that they have a valid TV licence for their premises. If the sporting event is shown on a channel which is not free-to-air, or is broadcast on a pay-per-view basis, a valid commercial premises contract should be obtained from the appropriate broadcaster.
- 28.6. The primary means of enforcing copyright claims is by way of proceedings brought under the Copyright, Designs and Patents Act 1988 by rights-holders. As such, the licensing authority will not generally consider it appropriate to exercise its licensing powers in respect of claims of copyright infringement at licensed premises. However, convictions for certain offences under the 1988 Act are specified as relevant offences in respect of personal licences, and may be considered as grounds for the refusal of an application for a personal licence or forfeiture of an existing personal licence (to be ordered by the court upon conviction for a relevant offence).

# Annexes



## Annex A – Delegation of functions

Full details of the scheme of delegation adopted by Dacorum can be viewed in the Council’s Constitution, which is available on our website. The table below summarises the main delegations, and shows which functions will be exercised at which level.

Matter to be determined	Delegation level	
	Licensing of Alcohol & Gambling Sub-Committee	Officers
<b>Premises licences</b>		
Determination of an application for a provisional statement	Where relevant representations have been received and not withdrawn	Where relevant representations were not received or have all been withdrawn
Determination of an application for a premises licence	Where relevant representations have been received and not withdrawn	Where relevant representations were not received or have all been withdrawn
Determination of an application for variation of a premises licence	Where relevant representations have been received and not withdrawn	Where relevant representations were not received or have all been withdrawn
Determination of an application for minor variation of a premises licence	-	✓
Determination of an application to designate a premises supervisor	Where a police objection notice has been received and not withdrawn	Where a police objection notice was not received or has been withdrawn
Determination of an application for transfer of a premises licence	Where a police objection notice has been received and not withdrawn	Where a police objection notice was not received or has been withdrawn
Consideration of an interim authority notice	Where a police objection notice has been received and not withdrawn	Where a police objection notice was not received or has been withdrawn
Determination of an application for review of a premises licence (including summary reviews and reviews following closure orders)	✓	-
Consideration of interim steps on summary review application	✓	-
Suspension of premises licence for non-payment of annual fee	-	✓
<b>Club premises certificates</b>		
Determination of an application for a club premises certificate	Where relevant representations have been received and not withdrawn	Where relevant representations were not received or have all been withdrawn
Determination of an application for variation of a club premises cert.	Where relevant representations have been received and not withdrawn	Where relevant representations were not received or have all been withdrawn
Determination of an application for minor variation of a club premises certificate	-	✓
Determination of an application for review of a club premises certificate	✓	-
Withdrawal of club premises certificate from ex-qualifying club	-	✓
Suspension of club premises certificate for non-payment of annual fee	-	✓

Matter to be determined	Delegation level	
	Licensing of Alcohol & Gambling Sub-Committee	Officers
<b>Temporary event notices</b>		
Consideration of a standard temporary event notice	Where an objection notice has been received and not withdrawn <i>(includes imposition of conditions if no counter-notice is issued)</i>	Where an objection notice was not received or has been withdrawn
Consideration of a late temporary event notice	-	✓ <i>(includes issue of counter-notice where an objection notice was received)</i>
Issue of counter-notice where statutory limits exceeded	-	✓
<b>Personal licences</b>		
Determination of an application for a personal licence	Where a police objection notice has been received and not withdrawn	Where a police objection notice was not received or has been withdrawn
Consideration of convictions coming to light after grant of personal licence	Where a police objection notice has been received and not withdrawn	Where a police objection notice was not received or has been withdrawn
<b>General</b>		
Decisions to prosecute or issue cautions for offences under the Act	-	✓
Initiation of reviews and making of representations on behalf of the licensing authority	-	✓
Determination of relevancy of representations	-	✓
Issue of premises closure orders (Anti-social Behaviour, Crime and Policing Act 2014)	-	✓

Adoption of the statement of licensing policy, early morning alcohol restriction orders and a late night levy requirement are functions of the Full Council.



## Annex B – Useful resources

### Age verification

No ID No Sale campaign

- [www.noidnosale.org](http://www.noidnosale.org)

### Alcohol awareness

Drinkaware

- [www.drinkaware.co.uk](http://www.drinkaware.co.uk)

### Alcohol promotions

Code of Practice of the Naming, Packaging and Promotion of Alcoholic Drinks (Portman Group)

- [www.portmangroup.org.uk/codes/alcohol-marketing/code-of-practice](http://www.portmangroup.org.uk/codes/alcohol-marketing/code-of-practice)

### Child sexual exploitation

Operation HALO minisite (Hertfordshire Constabulary)

- [www.herts.police.uk/advice/halo.aspx](http://www.herts.police.uk/advice/halo.aspx)

Say Something If You See Something resources (Hertfordshire Safeguarding Children's Board)

- [www.hertsdirect.org/services/healthsoc/childfam/childprotection/hertssafboard/childexplo/](http://www.hertsdirect.org/services/healthsoc/childfam/childprotection/hertssafboard/childexplo/)

### Counter-terrorism

Protecting Crowded Places from Terrorism (National Counter-Terrorism Security Office)

- [www.gov.uk/government/collections/crowded-places](http://www.gov.uk/government/collections/crowded-places)

### Crowd safety

Managing Crowds Safely: a guide for organisers at events and venues (HSE Publications)

- [www.hse.gov.uk/pubns/priced/hsg154.pdf](http://www.hse.gov.uk/pubns/priced/hsg154.pdf)

### Film classification

Classification guidelines (British Board of Film Classification)

- [www.bbfc.co.uk/what-classification](http://www.bbfc.co.uk/what-classification)

### Fire safety

Fire safety advice documents (Department for Communities and Local Government)

- [www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents](http://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents)

Hertfordshire Fire & Rescue Service – large outdoor event advice/requirements

- Available via [www.dacorum.gov.uk/home/environment-street-care/licensing/event-safety](http://www.dacorum.gov.uk/home/environment-street-care/licensing/event-safety)

### Noise control

Guidelines on Community Noise (World Health Organisation)

- [www.who.int/docstore/peh/noise/guidelines2.html](http://www.who.int/docstore/peh/noise/guidelines2.html)

Effective Management of Noise from Licensed Premises (British Beer and Pub Association)

- [www.beerandpub.com/industry-briefings/bbpa-guidance-on-licensed-property-noise-control](http://www.beerandpub.com/industry-briefings/bbpa-guidance-on-licensed-property-noise-control)

Code of Practice on Environmental Noise Control at Concerts (Noise Council)

- [www.cieh.org/policy/default.aspx?id=13870](http://www.cieh.org/policy/default.aspx?id=13870)

**Outdoor events**

The Purple Guide to Health, Safety and Welfare at music and other events

- [www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk) (*subscription required*)

The 'Can Do' guide to Organising a Voluntary Event (Cabinet Office)

- [www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events](http://www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events)

Event safety guidance (Dacorum Safety Advisory Group)

- [www.dacorum.gov.uk/home/environment-street-care/licensing/event-safety](http://www.dacorum.gov.uk/home/environment-street-care/licensing/event-safety)

**Security and CCTV**

Security Industry Authority website

- [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk)

Surveillance Camera Code of Practice (Surveillance Camera Commissioner)

- [www.gov.uk/government/publications/surveillance-camera-code-of-practice](http://www.gov.uk/government/publications/surveillance-camera-code-of-practice)

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## Annex C – Contact details

For information on this statement of licensing policy, or for informal advice on making an application or whether a particular activity is likely to require authorisation, please contact:

**Licensing  
Dacorum Borough Council  
Civic Centre  
Marlowes  
Hemel Hempstead  
HP1 1HH**

Phone: **01442 228000**  
Email: [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk)  
Web: [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

Many applications for licences can be made online – to do so, look for the ‘Do it online’ links on our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

Please note that, due to the complexity of the legislation that governs these activities, we can only give basic advice about which activities do and do not require authorisation, and about application processes.

If you are unsure as to the legality of a particular activity, or require more detailed information or advice than we are able to offer, we recommend that you consult an independent specialist advisor or a legal representative.

### Responsible authority contact details

Hertfordshire Constabulary (Dacorum Licensing)  
Phone: 01442 271601

Email: [dacorumlicensing@herts.pnn.police.uk](mailto:dacorumlicensing@herts.pnn.police.uk)

Hertfordshire Fire and Rescue Service (Fire Protection)  
Phone: 01707 292310

Email: [administration.cfs@hertfordshire.gov.uk](mailto:administration.cfs@hertfordshire.gov.uk)

Hertfordshire Public Health  
Phone: 0300 123 4040

Email: [publichealth@hertfordshire.gov.uk](mailto:publichealth@hertfordshire.gov.uk)

Hertfordshire Trading Standards  
Phone: 01707 292429

Email: [tradingstandards@hertfordshire.gov.uk](mailto:tradingstandards@hertfordshire.gov.uk)

Dacorum Regulatory Services  
Phone: 01442 228455

Email: [environmentalhealth@dacorum.gov.uk](mailto:environmentalhealth@dacorum.gov.uk)

Dacorum Planning  
Phone: 01442 228000

Email: [planning@dacorum.gov.uk](mailto:planning@dacorum.gov.uk)

Hertfordshire Safeguarding Children Board  
Phone: 01992 588757

Email: [admin.hscb@hertfordshire.gov.uk](mailto:admin.hscb@hertfordshire.gov.uk)

Full contact details for the above authorities including postal addresses, and additional authorities in respect of licensable activities on vessels, can be viewed on our website.

To make an application or for further guidance, please visit our website:  
[www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

For informal advice or queries, please email:  
[licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk)