

# The Institute of Licensing's

## Consultation: Guidance on Premises Licence Conditions



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### Introduction and mission statement

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1. Conditions are important. Done well, they may permit a licence to be granted that would otherwise have been refused. Done badly, they may overload a licence with so many restrictions that the licence becomes unworkable and a business unviable. In an age when it is increasingly common to encounter premises licences with 30, 40 or more conditions attached to them, this question now needs to be asked: are all these conditions genuinely appropriate, necessary and proportionate or is a different approach required? The Institute of Licensing believes that a sea-change in approach is required to promote the twin goals of promoting the licensing objectives whilst allowing safe and responsible licensed premises to flourish.
2. This Guidance on Premises Licence Conditions aims to assist operators, local authorities, responsible authorities and residents alike. It sets out general principles and then lists examples of conditions honed by experience and proven to be both effective and enforceable. Our focus is on premises licences issued under the Licensing Act 2003, although much of this guidance is equally applicable to club premises certificates. We have considered many thousands of conditions used by numerous licensing authorities and owe a great debt of gratitude to the officers who drew them up. Some we have adopted, others revised and updated. There will inevitably always be local preferences that eschew a one-size fits all approach. That is an entirely appropriate approach to a licensing system specifically designed to let those who know their locality best, mould their licensing policy and practice accordingly. Nevertheless, we hope and intend that this guidance and the precedent conditions will provide a useful lodestar to guide all interested parties when licence conditions are being considered under the Licensing Act 2003.

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3. This consultation seeks views, both on the general principles set out in this guidance and the specific conditions proposed. Our strength as an Institute flows from the unparalleled expertise and broad experience of its membership. We invite and welcome comments and suggestions from everyone - whether sceptical or enthusiastic, approving or critical. If this consultation serves to ignite a debate on licence conditions, then our project will have been worthwhile.
4. Prior to the introduction of the Licensing Act 2003, licensing justices very rarely found it necessary to impose more than a handful of conditions on a justices' alcohol licence and, more usually, imposed none at all. In contrast, local authorities considering public entertainment licences ("PEL") would generally impose several conditions, often by importing all of the "Standard Conditions for a Public Entertainment Licence" or "Rules of Management for Places of Public Entertainment" into a PEL. When the brave new world of licensing was born after the introduction of the Licensing Act 2003, the two worlds of alcohol licensing and public entertainment licensing were unified. Local authorities were placed in primary control of the whole system as the "licensing authority". At the time, concerns were raised that local authorities would unnecessarily load premises licences with conditions, as they had been inclined to do with PEL's. Now, a decade after the Licensing Act 2003 came into force, those concerns have proven to be justified in some cases.
5. We believe that if any blame is to be attached at all it must be borne equally by the trade, responsible authorities and local authorities. Too many irrelevant conditions were being offered by some operators (often with the encouragement of their legal advisors) seeking to pad out ambitious applications to make them appear more acceptable to concerned residents, responsible authorities or the local authority. Similarly, responsible authorities would often ask for every condition they could reasonably imagine to be attached to a licence when making representations in response to an application, without proper consideration of the individual circumstances of the case. Often, for understandable reasons, local authorities were less than assiduous in pruning out those conditions that were inappropriate, unnecessary or disproportionate before attaching them to a licence either through delegated powers (when the licence application was unchallenged) or at a hearing.
6. The situation was compounded by the rush to implement the new licensing regime and the transition provisions themselves. Wreathes of old, otiose and occasionally conflicting conditions were cut from old

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pre-2003 Act licences and pasted wholesale onto the new ones, where they still hang like an opaque and dead weight.<sup>1</sup>

7. Whatever the causes, the result has often been the issuance of premises licences with far too many unfocused, irrelevant, unnecessary, inappropriate, disproportionate, illegal or unenforceable conditions. This works to the detriment of all those with a legitimate interest in licensing.
8. We believe that a further important reason for the situation we are now in is the sub-conscious blending together of requirements that, on the one hand, are actually required to be *conditioned* into a licence and, on the other, those useful and responsible operational steps that are better described as “good management practices”.
9. We suggest that conditions that simply reflect good management practices should not generally appear on premises licences without very good reason. However requirements that would help determine the fundamental issue of whether a premises can operate in a particular locality in a manner that prevents the licensing objectives being undermined, would be justified as conditions rightly to be attached to licences. No more and no less.
10. The distinction may be clearer by way of an example. If a new pub has a beer garden adjoining residential properties, then limiting the use of that beer garden to a certain reasonable hour at night may well be the deciding factor in whether to grant the licence or not. That situation would entirely justify a condition on the licence relating to the use of the beer garden. However where, for example, a fine-dining restaurant hopes to open in a non-problematic location then the keeping of an incident log at the premises and full CCTV coverage may very well be good management practices. But the individual circumstances hardly justify the incident log or CCTV requirement being conditioned into the licence at all, because they are not, on proper scrutiny, required to safeguard the licensing objectives. They are no more than an add-on or padding and have no proper role to play as conditions in these circumstances. (We note that in relation to the near blanket imposition of CCTV conditions on premises licences that the Home Office recently felt it necessary to issue guidance specifically deterring this practice<sup>2</sup>).

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<sup>1</sup> Indeed the transitional provisions often required it, see Schedule 8 of the Licensing Act 2003 (Transitional Provisions etc) and DCMS guidance on embedded conditions published in May 2005 (reproduced in Paterson’s Licensing Acts 2015 at p.633)

<sup>2</sup> Surveillance Camera Code of Practice, Home Office (published 4 June 2013)

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11. We have been very impressed with the approach of certain licensing authorities which publish Codes of Good Practice to which all licence holders are expected to have regard, instead of routinely attaching scores of conditions to a premises licence. If problems arise with a premises then the relevant Code provides a yardstick by which the quality of management practices can be judged. After all, the primary responsibility for ensuring that a licensed premises operates in a manner that promotes the licensing objectives rests firmly on the licence holder. They should take whatever reasonable steps are required to achieve this goal, regardless of the existence or absence of conditions on their licence. A breach of a condition may or may not impact on a licensing objective. If the breach is deserving of punishment it can be the subject of a criminal prosecution<sup>3</sup>. But the critical factor is whether or not the management are taking *effective* steps to prevent crime and disorder and public nuisance, to safeguard public safety and protect children from harm. It is *not* simply whether the operator is complying with the precise terms of a condition on their licence or not. This is as true for the current operator as it may be for a future operator. If problems arise they can be dealt with informally at first and, ultimately, through the review process. Similarly, the primary focus of review proceedings should be on the impact of the particular premises on the licensing objectives, rather than on the secondary issue of whether the precise terms of a condition is or is not being complied with (though an operator who routinely breaches the condition of his licence will naturally find it difficult to persuade a tribunal that he is able to manage the premises competently in the future). We encourage all local authorities to consider publishing their own Codes of Good Practice - to which all responsible operators will be expected to have regard - in addition to any conditions that may be on their premises licences.

12. Conditions are better if they more closely resemble a laser than a blunderbuss. However comprehensive, the latter approach cannot possibly cater for, or predict, every eventuality or issue that may arise given the infinite ways in which humans engage with each other and behave.

13. The great majority of licensed premises operate in a socially responsible and professional way. However, those are precisely the premises that rarely create controversy and so only infrequently cross the radar of local authorities: either because they do not make unrealistic applications or do not attract

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<sup>3</sup> Under section 136 Licensing Act 2003

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intervention by the responsible authorities or licensing officers. We must all be alive to the need not to tar the whole licensed trade with the same brush rightly applied to the reckless and irresponsible minority of operators.

14. Conditions may well be required in order to fundamentally shape or fine-tune licences so that premises are able to operate in a manner that does not cause crime and disorder, public nuisance, threaten public safety or jeopardise the safety of children. But in all cases they must be appropriate, necessary and proportionate. All parties considering offering or imposing a condition should carefully reflect on whether the particular condition is *really* required for this particular premises, or is it simply unnecessary padding ?
15. We have deliberately used the phrase “necessary” in this guidance, despite the dilution of this well-regarded and generally understood threshold test for imposing conditions after its replacement with the “appropriate” test. We have done so because the Secretary of State’s Guidance issued under section 182 of the Licensing Act 2003 (henceforth “section 182 Guidance”)<sup>4</sup> makes it clear that all decisions relating to conditions must be both “appropriate” and “proportionate”. The senior courts have defined the concept of “proportionality” as including the requirement that, among other things, the step taken satisfies both the “appropriate” and “necessary” tests<sup>5</sup>. Therefore, it seems both logical and lawful for conditions to be imposed only if it is necessary to do so. This approach accords with basic public law and human rights principles when the State is seeking to restrict an otherwise lawful activity. We adopt it, whilst respectfully acknowledging the use of the term “appropriate” in the amended Licensing Act 2003. We strongly suspect that the terminological differences may have little practical impact in licensing determinations in any event. Licensing authorities, balancing the commercial interests of an operator with the public interest (as reflected in the licensing objectives) are rarely minded to impose a condition that is unnecessary. Indeed, we ask rhetorically, is a step that is unnecessary ever likely to be considered appropriate?
16. For reasons discussed above, we have very purposefully not included in our draft conditions a great many conditions that are habitually encountered across the country in what, we hope, will prove to be the

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<sup>4</sup> March 2015 edition.

<sup>5</sup> See Lord Bingham CJ in *R v Secretary of State for Health ex parte Eastside Cheese* [1999] 3 CMLR 123

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bygone-age of overloaded licences. Instead we have restricted ourselves to those conditions we believe are most likely to be genuinely worthy of attaching to a licence, as opposed to simply being good management practices; although we appreciate a degree of overlap is inevitable. The reader will therefore note that many ubiquitously encountered conditions are absent from our draft conditions. We will listen carefully to our consultees, and if we are persuaded that in a particular instance we have wielded the scalpel too liberally, we are fully prepared to be contrite and re-consider.

17. Before turning to the types of conditions, and our guiding principles, this critical point needs to be made. There must be absolutely no imposition of “standard” or “blanket” conditions on premises licences. Each and every decision to impose a condition must be justified according to the individual circumstances of the specific case. If a party is asked why a specific condition is required in relation to a particular premises, they must be able to provide a clear and cogent answer. If none is forthcoming the condition should disappear - either gracefully or with a thud.

### Premises licence plans

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18. The role of the plan in the context of a premises licence is often misunderstood. The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, require plans to be submitted with an application for a premises licence or club premises certificate. The plans are required by the Regulations to contain prescribed information relating to the premises and the application being made.
19. The Regulations require the plans to form part of the premises licence or club premises certificate. The plans are required to show the areas of the premises used for licensable activities, and as such will define those areas for the purpose of the licence once issued. It provides the opportunity too for specific arrangements to be conditioned within the licence where considered necessary for the promotion of the licensing objectives. Examples can be found within these conditions.



## Types of conditions

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20. There are three types of conditions that may be attached to a premises licence (or club premises certificate)

- Mandatory
- Proposed
- Imposed

### *Mandatory*

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21. The “mandatory conditions” (including the somewhat misnamed “mandatory code”) will be automatically imposed on a licence by process of law and so involves no exercise of discretion. Therefore the mandatory conditions fall outside the scope of this guidance though, for reference purposes, we include them in [Appendix A](#). The reader is referred to Chapter 10 of the section 182 Guidance for further explanation of, and commentary on, the mandatory conditions.

### *Proposed*

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22. Applicants will generally propose steps they intend to take to promote the licensing objectives within the operating schedule of their licence application form. If there are no relevant representations received in response to the application then the licence will be granted without the need for a hearing and the licensing authority’s discretion is not *fully* engaged. Conditions that are consistent with steps proposed in the operating schedule will usually be attached to the licence by a licensing officer acting under delegated authority. These conditions will then form part of the premises licence that is issued. This important issue then arises: what does a licensing officer do if the steps described within the operating schedule lack clarity or precision or are clearly unnecessary to promote the licensing objectives?

23. Operating schedules will often be completed by persons whose interests and strengths lay in fields other than legal drafting and without the benefit of expert advice. So should a licensing officer slavishly replicate the inadequate step proposed in the operating schedule by including an inadequate condition

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on the premises licence? Both the courts<sup>6</sup> and the section 182 Guidance<sup>7</sup> provide the clear answer: “No”. Officers can, indeed must, translate the proposed measure into a clear, precise and enforceable condition if it is possible to do so.

24. We would go further and suggest that if a step included within the operating schedule is clearly unnecessary or inappropriate to promote the licensing objectives, then it should not be added to the licence at all. There is judicial support for this approach and the courts have observed that the Licensing Act 2003 provides local authorities with a *power* to impose conditions consistent with the operating schedule, but they are not under a *duty* to do so<sup>8</sup>. We add this important word of caution: it may be that a step offered in the operating schedule is the very reason that a person felt able to withhold making a representation in the first place. In that case our hypothetical person may be thought to have a justified grievance if an officer, through unilateral administrative action, removed the very measure that gave him comfort and the confidence not to object to the application. For this reason we suggest that measures proposed in operating schedules are only completely removed from the issued licence in the clearest of cases where the proposed measure is wholly inappropriate or unnecessary to promote the licensing objectives.

### *Imposed*

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25. Additional conditions are frequently and properly imposed by licensing authorities at hearings when considering applications for a new licence, a variation of an existing one or at a review. The condition may have been put forward at the hearing by the applicant, a responsible authority or other person who has made a representation or indeed by the Members of the sub-committee themselves.

26. It is best practice, as well as a matter of elemental fairness, that at a hearing the licensing authority ensures that the parties are aware of any condition the licensing authority is proposing to add of its own volition to a licence, in advance of the decision being made. Often the condition in question will have been canvassed in the course of the hearing and so probably needs no further investigation. However

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<sup>6</sup> See *R (Bristol City Council) v Bristol Magistrates’ Court* [2009] EWHC 625 (Admin)

<sup>7</sup> See paragraphs 10.6 to 10.7 of March 2015 Guidance

<sup>8</sup> See John Howell QC, sitting as a Deputy High Court Judge in *R (Bristol City Council) v Bristol Magistrates’ Court* [2009] EWHC 625 (Admin) at paragraph 35, construing section 18 of the Licensing Act 2003

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when Members are considering adding a condition that has not been addressed during the hearing, for example because it is raised after the Members have retired to consider their decision, the parties should be given an opportunity to address the Members on the new condition being considered. This can be done informally, for example by the legal advisor or committee clerk passing a message to the waiting parties. If the proposed condition proves controversial the parties should be afforded the opportunity of addressing the Members further on both the principle of the condition or its specific wording. This is likely to serve the interests of all parties, including the Members who will be better informed about the impact and practicability of their proposal. Moreover, a failure to follow this approach risks attracting criticism from the appeal courts. The appeal court may well conclude that a party who has been ambushed by a surprise condition, without the opportunity to make submissions about it in advance, has been treated unfairly by the tribunal below.<sup>9</sup>

### The guiding principles

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27. These guiding principles are designed to be just that, a guide. They are not intended to be a straightjacket or treated as immutable. We would emphasise that each and every decision to impose a condition must be justified by reference to the particular circumstances of the individual case. If any condition does not suit the individual case it must be tailored accordingly.
28. Nevertheless, we suggest that the decision to offer or impose a condition is more likely to be justified if the proposed condition complies with the seven principles set out below.
29. Conditions imposed on a licence should be:
- 1) Appropriate, necessary and proportionate;
  - 2) Precise, clear and unambiguous;
  - 3) Practical, realistic and enforceable;
  - 4) Non-duplicative of existing statutory requirements or offences;
  - 5) Self-contained;
  - 6) Modern and fit for purpose;

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<sup>9</sup> In this regard, see *R (Westminster City Council) v Merran* [2008] EWHC 1202 (Admin)

And, finally:

7) The fewer conditions the better.

30. We consider each of these guiding principles in turn.

### ***1) Appropriate, necessary and proportionate***

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31. Conditions must be appropriate, necessary and proportionate. We have explained above why we employ the threshold test of “necessary” rather than simply “appropriate”. By necessary, we mean, as everyone understands, the following: if in order to move from unsatisfactory position A to required position C we must take the intervening step B, then B is a “necessary” step. Thus, if a condition is required to convert a licensed operation from one that is likely to undermine the licensing objectives into one that does not, then that condition is “necessary”.

32. “Proportionality” is perhaps best explained by the old adage that “one should not take a sledgehammer to crack a nut”. Or, as more formally expressed by the courts:<sup>10</sup>

*“...when there is a choice between several appropriate measures recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued.”*

33. If the objective is, for example, to permit a pub to operate so long as it does not disturb nearby residents late at night, then it may well be necessary and proportionate for conditions to be imposed that restrict outside drinking to a reasonable hour at night. But a decision to totally ban outside drinking or to reject the application outright is unlikely to be a necessary or proportionate one - because a lesser measure could have achieved the same worthy objective.

34. Conditions will always have the effect of restricting a lawful business or imposing additional requirements. They may directly lead to significant expense (for example through the installation costs of a CCTV system or by the employment of additional door supervisors). The number and effect of conditions on a licence may well make the difference between a viable business and one that fails, with

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<sup>10</sup> *R v Secretary of State for Health ex parte Eastside Cheese* [1999] 3 CMLR 123

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the consequent loss of local employment opportunities and the disappearance of a valuable community asset and potential source of human enjoyment.

35. For all these reasons, conditions should only be imposed if they are appropriate, necessary and proportionate steps that promote the licensing objectives.

### *2) Precise, clear and unambiguous*

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36. The wording of conditions must be precise, clear and unambiguous. For a condition to be effective it must be complied with. But in order for that to happen it must be clearly understood. Those responsible for ensuring compliance must know precisely what is required to be done or not done. This should be immediately obvious from a straight-forward reading of the condition by experts and non-experts alike. Current operators, future operators, staff members, local residents and businesses, in addition to police and council officers, must all be able to look at a licence condition and understand precisely what it means.

37. When conditions are added to a licence they must be expressed in the imperative, using words such as “must” and “shall” rather than “should” or “might”.

38. It may well be that when a condition was originally proposed or imposed on a licence “everyone knew what it meant”. But that, of course, is not good enough<sup>11</sup>. A breach of a licence condition may amount to a criminal offence punishable with up to 6 months imprisonment and an unlimited fine. Such serious consequences should not be left to chance interpretation.

39. So, for example, where a condition requires “inaudibility” at the nearest noise sensitive premises, what exactly do we mean by the word “inaudibility”? Inaudible to whom? An average teenager’s ability to hear high-frequency sound is measurably better than a thirty-something’s. Is the condition complied with in the case of a thirty-year old, but breached when a teenager is present? The quiet hum of an air-conditioning unit in an office would fail the “inaudibility” test, but is that what the condition was aimed to prevent? And where, precisely, do we mean when we say “nearest noise sensitive premises”? Do we

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<sup>11</sup> The purpose of Stonehenge was no doubt abundantly clear to our forefathers, less so now.

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mean the block of retirement flats 30 metres away or the student accommodation 20 metres away? If the problems associated with this commonly encountered noise condition are seen as far-fetched or overly pedantic, then the reader can turn to the High Court where a similarly worded condition was recently struck down for lack of clarity and precision.<sup>12</sup>

40. An operator may be required by a condition to use his “reasonable endeavours” to keep his customers quiet. But what amounts to “reasonable endeavours”? Is it putting up a sign requesting customers to respect neighbours, or is it by selective use of a gag?

41. Whilst the courts often have to grapple with the “reasonableness” test, and we recognise that it cannot always be avoided within licence conditions, it would be far better if compliance with a condition did not depend upon the uncertain outcome of a future court’s opinion as to whether an act was or was not reasonable. The word “reasonable” should not be used in conditions whenever it is possible to state precisely what is, or is not, required.

42. The clearer and more precise a condition is, then the more likely it will be understood and complied with. What is more, few criminal courts would be prepared to convict a person of the offence of carrying out licensable activities in breach of a licence condition<sup>13</sup> if that condition lacks clarity and precision or is ambiguous.<sup>14</sup> A similar approach can be expected from all reasonable Members of a licensing sub-committee convened to consider a review application based on (completely or in part) a breach of such an inadequately expressed condition. A condition that cannot be enforced for lack of clarity or precision is a worthless condition that has no place on a premises licence.

### ***3) Practical, realistic and enforceable***

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43. Conditions may only be attached to a licence if they are practically capable of being complied with. Therefore, a condition which seeks to control customers after they have left the vicinity of a licensed premises is an improper one, because it cannot realistically be complied with or enforced even by the most responsible of operators.

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<sup>12</sup> *Developing Retail Ltd v East Hampshire Magistrates’ Court* [2011] EWHC 618 (Admin)

<sup>13</sup> Contrary to section 136 of the Licensing Act 2003

<sup>14</sup> See *Crawley Borough Council v Attenborough* [2006] 1 LLR 802 and *DDP v Shaw* 45 Cr App R 113

44. A condition might require customers to “be seated” whilst in a beer garden after 9pm. But what happens the moment a customer gets up in order to buy another drink or for a matter of personal convenience? Is the licence holder immediately in breach of his licence? Strictly speaking, he is. This cannot have been the intention of the condition’s draftsman, but it is the impractical and unrealistic consequence of an ill-thought out condition.

#### *4) Avoid duplication of existing statutory requirements or offences*

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45. Where a statutory regime already imposes specific conditions or requirements then it is rarely appropriate or necessary for a licensing condition to replicate exactly the same requirement. For example, the Regulatory Reform (Fire Safety) Order 2005 imposes duties and conditions on operators of licensed premises in relation to fire safety. Those same requirements do not, and should not, be duplicated on a premises licence (indeed such conditions are automatically suspended if they deal with the same matters as the Order itself)<sup>15</sup>. Similarly, where it is a criminal offence to do an act it is unnecessary for a condition to deal with the same issue.

#### *5) Self-contained*

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46. Wherever possible conditions should be self-contained, in the sense that the reader should not need to look outside the condition itself in order to know precisely what is required of him.

47. Requirements that are conditional on a third-party approving or permitting certain steps or activities can be problematic and should be avoided if at all possible. If, for example, a condition for a CCTV system is framed in terms that the CCTV is installed to “the satisfaction of a police officer”, then what would happen if that police officer unreasonably refuses to approve a perfectly satisfactory CCTV system on the grounds of personal preference? What is the position if the system satisfied Pc Dixon but not his successor Pc Plum? On a strict interpretation, the operator is not permitted to carry out licensable activities until the impasse is resolved, possibly by having to embark on the long process of applying for a variation of that condition. Licensing authorities should not generally delegate their functions or

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<sup>15</sup> Section 43 of the Regulatory Reform (Fire Safety) Order 2005.

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responsibilities to promote the licensing objectives to a third-party because to do so may amount to an abrogation of their own licensing functions.

48. We are aware of conditions requiring a licence holder or the Designated Premises Supervisor to participate in or belong to their local pubwatch scheme. This is despite frequent calls from the organisers of National Pubwatch not to impose such conditions. If membership of pubwatch is conditioned into a licence then it creates very real difficulties for the scheme if a member needs to be excluded for good reason given the consequences of exclusion to that licence holder. It also creates real problems for licence holders if a local pubwatch scheme were to fade away.

49. A different but connected issue arises when a condition seeks to incorporate the terms of a third-party document or set of guidelines. This may prove equally problematic. We are familiar with conditions that still impose a duty on licence holders to comply with the “Standard Conditions on Public Entertainment Licences” despite that document being designed for a pre-2003 Act regime and being, in many ways, out of date and legally inconsistent with the Licensing Act 2003. We are also aware of conditions that require nightclub operators to operate in accordance with, for example, “Safe and Sound” guidance issued by police forces. But that guidance is subject to change or retraction. What then is a responsible operator wishing to comply with his licence conditions, but unable to, supposed to do? Another consequence is that an inspecting officer may not be able to tell from reading the premises licence what is or is not required by that third-party document or set of guidelines, and so is unable to enforce the licence timeously.

50. An exception, that may require a departure from this guiding principle for strong pragmatic reasons, is in the case of large outdoor events supervised by, for example, a Safety Advisory Group (“SAG”). In these circumstances we can see some force in a condition that the event must comply with requirements of the SAG in order to promote the licensing objectives. Without such a condition events, such as seasonal festivals, may well be refused a licence due to the absence of detailed plans that have not yet been finally settled. This prohibitive effect appears to us to be against the central philosophy of the Licensing Act 2003 that is designed to *permit* activities under proper controls, whenever it is possible to do so.



### *6) Modern and fit for purpose*

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51. The language of conditions should reflect the way English is spoken today rather than in the past. Simple words instead of technical or archaic ones are to be preferred because they are more readily understood by the vast majority of people who need to read and understand the licence. A condition that is only understood by the chosen few is a poor condition.
52. As a result of the genesis of the 2003 Act and its unification of various older licensing regimes, conditions or requirements arising under the old regimes may enjoy an unjustified existence after their rightful date of retirement. We are aware of conditions relating to stage hypnotism (and, rather quaintly, “mesmerism”), fog-machines and on one occasion even “limelight” that still appear on premises licences today. Similarly, references to the terms of the old Licensing Act 1964 and its application to children, to “supper licences”, and to fire-safety capacities, still appear on licences without justification or, often, legal enforceability.
53. It is the benign and useful practice of many licensing authorities to take every opportunity that presents itself to remove these old and otiose conditions from modern licences and lay them to rest. With the agreement of the parties, this could happen at variation or review hearings (or through minor variations), even when the subject matter of the application is unconnected to the historic condition being put out of its misery. Such an approach will invariably meet with the consent and approval of all parties with an interest in the licence and helps to ensure premises licences are relevant, modern, up to date and fit for purpose.

### *7) The fewer the better*

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54. Generally, the fewer conditions on a licence the better.
55. The first question for a licensing authority considering adding scores of conditions onto a Premises licence is this: if it is *really* so necessary to micro-manage a licensed operation by attaching 30, 40 or more conditions onto a premises licence, should the licence be granted to this operator or indeed at all?

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56. Secondly, in our experience the more conditions there are on a premises licence, the *less* likely they are to be complied with. The reason may not be indifference by a negligent operator. To use a common-place analogy: those of us who have applied for an online credit card and were cautious enough to click on the “terms and conditions” link may well have wished they had not. Scores of terms overflow into conditions. It usually leads to a rather short inspection as our eyes gloss over and our wandering minds contemplate the limitations on our mortal lives. The same scenario is very possibly true when an operator, or perhaps a new Designated Premises Supervisor, turns to his premises licence and is confronted with 30, 40 or more conditions spread over page after page. However, if we return to our analogy, if the terms and conditions were set out clearly and limited to perhaps half a dozen or so truly essential conditions that we actually need to be aware of and make a real difference, the chances that we will consider them all in proper detail, and comply with them, are immeasurably increased. The same is likely to be true of conditions on premises licences. Less is often more.

57. It may be that circumstances demonstrate that a particularly problematic premises requires more conditions to be imposed on its licence than was originally thought appropriate or necessary at the time of its grant. If so, that is a matter most properly addressed in the course of review proceedings.

## Conclusion

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58. With these guiding principles set out, we turn now to the draft Conditions themselves, which can also be found on the Institute of Licensing’s website at:

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

59. The Consultation on this guidance and the conditions will take place until 30 September 2015. The quality of this project will be immeasurably improved by feedback from our Members which can be provided by completing our consultation **survey** here:

[https://www.surveymonkey.com/s/IoL\\_Guidance\\_on\\_Premises\\_Licence\\_Conditions\\_Consultation\\_June\\_2015](https://www.surveymonkey.com/s/IoL_Guidance_on_Premises_Licence_Conditions_Consultation_June_2015)

## Guidance on Premises Licence Conditions – Licensing Act 2003

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60. Your comments, positive or negative, constructive or caustic, are positively invited and will be most welcome.

**Myles Bebbington<sup>16</sup>, James Button<sup>17</sup>, Gary Grant<sup>18</sup> and Sue Nelson<sup>19</sup>**

June 2015

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## The Conditions

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*The following conditions have been derived from various existing ‘pools’ of conditions offered by many licensing authorities for consideration. Throughout the development of this document, the principles outlined above, and the need for a concise reference for conditions has been supported and underlined by the various examples provided both good and bad. The aim of this pool is to provide a starting point for licensing authorities where the need for a condition has been identified – the wording has been examined from every angle and should provide a template for each condition, which can then be tailored to the needs of the specific licence in question.*

***Under no circumstances should any licensing authority regard these conditions as standard conditions to be automatically imposed on licences.***

### Admission

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1. No person under the age of 18 will be permitted to enter or remain on the premises when any “specified activity” is taking place.
  - Specified activities are:
  - ‘Any live performance; or
  - Any live display of nudity;
  - Which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
  - Display of nudity means
  - In the case of a women, exposure of her nipples, pubic area, genitals or anus; and
  - In the case of a man, exposure of his public area, genitals or anus,
  - NB – The audience can consist of one person.
2. No person under the age of [insert age] years of age is permitted to enter or remain on the licensed premises when alcohol is being sold or supplied.
3. No customer will be permitted to enter or re-enter the premises between the hours of [specify] save for persons who have temporarily left the premises (e.g. to smoke).
4. Between [specified times] no customer will be permitted to enter or leave the premises by means of [specified entrances].
5. All persons entering or re-entering the premises must be searched by an SIA registered door supervisor [and all searches must be monitored by the premises CCTV system].
6. Any queue [in a designated queuing area] to enter the premises must be supervised at all times by door supervisors.

## Guidance on Premises Licence Conditions – Licensing Act 2003

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7. Any [designated] queuing area must be within suitable barriers.
8. No more than [insert number] customers will be permitted on the premises at any one time.

### **Designated smoking areas**

9. Customers permitted to temporarily leave and then re-enter the premises to smoke must be restricted to a designated smoking area defined as [specify location / mark on plan]. No more than [insert number] of customers will be permitted to remain in the designated smoking area at any one time.

### **Alcohol**

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10. Customers will not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers
11. No beer, lager, cider, ale or spirit mixers with an alcohol by volume content above [insert percentage] will be sold or offered for sale.
12. All sealed containers of alcoholic drinks offered for sale for consumption off the premises must be clearly labelled or marked with the name and postcode of the premises.
13. The premises licence holder must submit to the relevant police officer [insert contact details] a completed risk assessment form as prescribed at least 14 days before any event that is:
  - promoted / advertised to the public at any time before the event; and
  - features DJ's, MCs or equivalent performing to a recorded backing track; and
  - runs anytime between the hours of [insert hours]

### **Alcohol (Restaurant)**

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14. The premises must only operate as a restaurant (i) in which customers are seated at a table, (ii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery, (iii) which do not provide any take away service of food or drink for immediate consumption, and (iv) where alcohol must not be sold, supplied, or consumed on the premises otherwise than to persons who are taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
15. The supply of alcohol to customers must be by waiter or waitress service only.

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### *Boxing or Wrestling or indoor sports*

16. At any wrestling or other entertainments of a similar nature, members of the public must not occupy any seat within [specify distance] of the ring.

### **CCTV**

*The Surveillance Camera Code of Practice (issued by the Home Office in June 2013) makes specific reference to licensing authorities and their use of conditions attached to premises licences, stating:*

*‘When a relevant authority has licensing functions and considers the use of surveillance camera systems as part of the conditions attached to a licence or certificate, it must in particular have regard to guiding principle one in the [Surveillance Camera Code of Practice]. Any proposed imposition of a blanket requirement to attach surveillance camera conditions as part of the conditions attached to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review. Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that particular case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified. In such circumstances where a licence or certificate is granted subject to surveillance camera system conditions, the consideration of all other guiding principles in this code is a matter for the licensee as the system operator’.*

*Guiding Principle One is shown below for information:*

**Principle 1 - Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.**

- 3.1.1 Surveillance camera systems operating in public places must always have a clearly defined purpose or purposes in pursuit of a legitimate aim and necessary to address a pressing need (or needs). Such a legitimate aim and pressing need might include national security, public safety, the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. That purpose (or purposes) should be capable of translation into clearly articulated objectives against which the ongoing requirement for operation or use of the systems and any images or other information obtained can be assessed.
- 3.1.2 In assessing whether a system will meet its objectives, and in designing the appropriate technological solution to do so, a system operator should always consider the requirements of the end user of the images, particularly where the objective can be characterised as the prevention, detection and investigation of crime and the end user is likely to be the police and the criminal justice system.
- 3.1.3 A surveillance camera system should only be used in a public place for the specific purpose or purposes it was established to address. It should not be used for other purposes that would not have justified its establishment in the first place. Any proposed extension to the purposes for which a system was established and images and information are collected should be subject to consultation before any decision is taken.

## Guidance on Premises Licence Conditions – Licensing Act 2003

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*The Data Protection Act 1998 allows for CCTV images which can be used to identify an individual to be handed over for the prevention or detection of crime, the prosecution or apprehension of offenders or where the disclosure is required by law, for example, where an officer of the licensing authority is checking that CCTV is being used in accordance with the conditions of a particular licence.*

*The requirements of the Data Protection Act 1998 are such that such disclosure should be necessary for investigating or preventing a crime or apprehending or prosecuting an offender. As such the police must be able to justify their requests for CCTV images to be disclosed to them.*

17. The premises licence holder must ensure that :

- a. CCTV cameras are located within the premises to cover all public areas including all entrances and exits [The location of cameras could also be specified on the plan attached to the premises licence].
- b. The system records clear images permitting the identification of individuals.
- c. The CCTV system is able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
- d. The CCTV system operates [specify 'at all times while the premises are open for licensable activities' or specify timings]. All equipment must have a constant and accurate time and date generation.
- e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
- f. There are members of trained staff at the premises during operating hours able to provide viewable copies on request to police or authorised local authority officers as soon as is reasonably practicable in accordance with the Data Protection Act 1998 (or any replacement legislation).

### **Deliveries**

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18. No deliveries or collections relating to licensable activities at the premises will take place between the hours of [insert hours].

### **Dispersals**

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19. The dispersal of customers from the premises must be managed in accordance with the following:

- Clear and legible notices must be prominently displayed at all exits requesting customers to respect local residents and leave the area quietly.
- Public announcements requesting customers to leave quietly to minimise disturbance to nearby residents
- A [specify minutes] period where [music volume is reduced / lighting increased / alcohol sales cease]

### **Glass**

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20. Drinks must only be served in polycarbonate/plastic containers.

## Guidance on Premises Licence Conditions – Licensing Act 2003

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### Large Events

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21. The Premises licence Holder must comply with the Event Management Plan submitted to and approved by the Licensing Authority and no changes will be made to the Event Management Plan without the prior written consent of the Licensing Authority.<sup>20</sup>

### Late Night Refreshments

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22. Customers must not be permitted to remove from the premises late night refreshment provided at the premises between [specify hours/days].

### Noise

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*“Inaudibility” conditions have been popular in the past but have faced sufficient criticism in the courts to be quashed as invalid for lack of precision<sup>21</sup>. Noise conditions are notoriously difficult to pre-empt and should be applied only where professional advice has been obtained from the licensing authority acoustic advisor. Such conditions will be strictly tailored to the premises in question and the concerns to hand in relation to noise attenuation and resultant nuisance.*

23. Between [specify hours/ days], the noise climate of the surrounding area must be protected such that the A-weighted equivalent continuous noise level (LAeq) emanating from the application site, as measured [specified distance(usually in metres, between the noise source and the receiver location(s))] from any facade of any noise sensitive premises over any [specify no. of minutes] period with entertainment taking place, must not increase by more than [specify dB tolerance (e.g. +3 dB, +5 dB, etc.)] as compared to the same measure, from the same position, and over a comparable period, with no entertainment taking place; and the unweighted (i.e. linear) equivalent noise level (LZeq) in the 63Hz 1/1-Octave band, measured using the "fast" time constant, inside any noise sensitive premises, with the windows open or closed, over any [specify no. of minutes] period with entertainment taking place, should show no increase as compared to the same measure, from the same location(s), and over a comparable period, with no entertainment taking place.<sup>22</sup>
24. The location and orientation of loudspeakers must be as specified on the attached premises plan.
25. An [acoustic lobby / acoustic door / acoustic curtains/ acoustic door seals / automatic door closer] must be installed [specify the location / define on plan].

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<sup>20</sup> Event Mgt plan can be drawn up in consultation with the Safety Advisory Group and Responsible Authorities.

<sup>21</sup> See *Developing Retail Ltd v East Hampshire Magistrates’ Court* [2011] EWHC 618 (Admin)

<sup>22</sup> We recognise this condition requires expert input and may not be immediately understandable to the lay man. As such it stands as an exception to our general principles.



## Guidance on Premises Licence Conditions – Licensing Act 2003

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26. All external windows and doors must be kept shut at all times when regulated entertainment is being provided. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.

### **Noise Limiting Device**

27. A noise limiting device must be installed and must operate at all times regulated entertainment takes place at the premises. The device must be of a type, in a location and set at a level [specify if known] [approved in writing by the appropriate officer of the Council].

### **Outdoor Areas**

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28. No more than [insert number] customers will be permitted to enter or remain in [define outdoor area(s)] of the premises at any one time, between the hours of [specify].
29. Clear and legible notices must be prominently displayed at any area used for smoking requesting customers to respect the needs of local residents and use the area quietly.

### **Records**

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30. A refusals record must be kept at the premises which details all refusals to sell alcohol. This record must include the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. All entries must be made within 24 hours of the refusal. The record must be made available for inspection and copying within [specify days / hours or a reasonable time] of a request by an officer of a Responsible Authority.

### **SIA (door supervisors)**

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31. All door supervisors, and other persons engaged at the premises, for the purpose of supervising or controlling queues or customers, must wear [high visibility jackets or vests or armbands].
32. Door supervision must be provided on (specify days). Door supervisors must be on duty from [INSERT HOURS] and must remain on duty until the premises are closed and all the customers have left.
33. Door supervisors must be provided with radios to enable them to contact each other and the duty manager at the premises.
34. On [specify days/hours] at least [insert number] of SIA registered door supervisors must be on duty at the premises [specify location at the premises] [or as shown on the plan].
35. Where SIA registered door supervisors are used at the premises, a record must be kept of their SIA registration number and the dates and times when they are on duty.

## Guidance on Premises Licence Conditions – Licensing Act 2003

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36. On [specify days/hours] at least [insert number] of SIA registered door supervisors must be on duty at the premises [specify location at the premises] [or as shown on the plan].<sup>23</sup>

### Staff

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37. A Personal licence Holder must be present at the premises to supervise all sales of alcohol.
38. A direct telephone number for the duty manager must be prominently displayed where it can conveniently be read from the exterior of the premises by the public. The telephone must be manned at all times the premises is open for licensable activities.
39. The PLH/DPS will provide [specify ratio] adult supervisors at a ratio of [specify ratio] who can provide care for the children as they move from stage to dressing room etc., and to ensure that all children can be accounted for in case of an evacuation or an emergency.

### Waste

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40. Between the hours of [insert hours] no waste/glass bottles will be moved or deposited outside.
41. At [specify times] [specify areas] outside the premises, including [specify areas] must be swept and/or washed, and litter and sweepings collected and stored [specify storage and collection].
42. Where the premises provide late night refreshments for consumption off the premises sufficient waste bins must be provided at or near the exits, to enable the disposal of waste.
43. Empty bottles which have been collected must be placed into locked bins.

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<sup>23</sup> The “industry standard” is generally regarded as a ratio of 1 door supervisor to 100 customers but this will vary according to circumstances.

This Appendix contains the relevant extracts from the legislation (shown in red below) together with a suggested workable wording for their application within premises licences (shown in black).

*Original Legislation (in Red)*

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**Licensing Act 2003**

**Premises Licences**

**19 Mandatory conditions where licence authorises supply of alcohol**

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence—

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

(4) The other conditions are any conditions specified in an order under section 19A and applicable to the premises licence.

**20 Mandatory condition: exhibition of films**

(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where—

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section—

“children” means persons aged under 18; and

## Guidance on Premises Licence Conditions – Licensing Act 2003

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“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c. 39) (authority to determine suitability of video works for classification).

### **21 Mandatory condition: door supervision**

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must—

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of that Act.

(2) But nothing in subsection (1) requires such a condition to be imposed—

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to—

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section—

(a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act) , and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

### **Club Premises Certificates**

#### **73 Certificate authorising supply of alcohol for consumption off the premises**

(1) A club premises certificate may not authorise the supply of alcohol for consumption off the premises unless it also authorises the supply of alcohol to a member of the club for consumption on those premises.

(2) A club premises certificate which authorises the supply of alcohol for consumption off the premises must include the following conditions.

## Guidance on Premises Licence Conditions – Licensing Act 2003

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(3) The first condition is that the supply must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

(4) The second condition is that any alcohol supplied for consumption off the premises must be in a sealed container.

(5) The third condition is that any supply of alcohol for consumption off the premises must be made to a member of the club in person.

### **Mandatory Licensing Conditions imposed under ss19A and 73B Licensing Act 2003 and the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended**

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

## Guidance on Premises Licence Conditions – Licensing Act 2003

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### 4. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

“Responsible person” is defined in Art 2 of the **Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended** as: ““Responsible person” has the meaning given in paragraphs (a) and (b) of the definition in section 153(4) of the Act.

### **Licensing Act 2003 153(4)**

#### (4) In this section “responsible person” means—

(a) in relation to licensed premises—

- (i) the holder of a premises licence in respect of the premises,
- (ii) the designated premises supervisor (if any) under such a licence, or
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor,

(b) in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question

### **The Licensing Act 2003 (Mandatory Conditions) Order 2014 SI 2014/1252**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

#### 2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

## Guidance on Premises Licence Conditions – Licensing Act 2003

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where—

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

### *Suggested wording for Mandatory Conditions (in Black):*

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#### **Premises Licences that authorise alcohol sales (s19 Condition)**

- 1) No supply of alcohol may be made under the premises licence—
  - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

#### **Premises Licences or Club Premises Certificates that authorise film exhibitions (s20 condition)**

- 1) No children shall be admitted to the exhibition of any film unless they have reached the age specified in the British Board of Film Classification (“BBFC”) Certificate, or the Classification issued by the Licensing Authority.

#### **Premises Licences that require security staff (s21 condition)**

- 1) In accordance with Condition [insert appropriate condition number which requires security staff] above all persons undertaking security functions must at all times hold a current licence to do so granted by the Security Industry Authority

## Guidance on Premises Licence Conditions – Licensing Act 2003

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### **Club Premises Certificates that authorise supplies of alcohol for consumption off the premises (s73 condition)**

- 1) Any supply of alcohol for consumption off the premises must only be made when the premises are open for the purposes of supplying alcohol to members of the club for consumption on the premises.
- 2) Any supply of alcohol for consumption off the premises must be in a sealed container.
- 3) Any supply of alcohol for consumption off the premises must be made to a member of the club in person.

### **Premises Licences authorising the sale of alcohol for consumption on the premises (Additional Mandatory Condition for Irresponsible Drinks Promotions)**

- 1) (1) The responsible person must ensure that staff on the premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises, and the responsible person is:
  - (i) the holder of a premises licence in respect of the premises,
  - (ii) the designated premises supervisor (if any) under such a licence, or
  - (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a premises licence holder or designated premises supervisor.
- (2) An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
  - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - e) (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 2) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available, and the responsible person is:
  - (i) the holder of a premises licence in respect of the premises,
  - (ii) the designated premises supervisor (if any) under such a licence, or



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(iii) any individual aged 18 or over who is authorised for the purposes of this section by such a premises licence holder or designated premises supervisor.

3) The responsible person who is:

- (i) the holder of a premises licence in respect of the premises,
- (ii) the designated premises supervisor (if any) under such a licence, or
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a premises licence holder or designated premises supervisor.

must ensure that—

a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### **Premises Licences authorising the sale of alcohol for consumption on or off the premises, or both (Additional Mandatory Condition for Age Verification Policy and Under Duty+VAT Sales)**

1) (1) The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale of alcohol.

(2) The designated premises supervisor must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- a) a holographic mark, or
- b) an ultraviolet feature.

2) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

3) (a) For the purposes of the condition set out in paragraph 1—

- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

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- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

### **Club Premises Certificates authorising the supply of alcohol for consumption on the premises (Additional Mandatory Condition for Irresponsible Drinks Promotions)**

- 1) (1) The responsible person must ensure that staff on the premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises, and the responsible person is any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question,
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
- a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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- 3) The responsible person who is any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question, must ensure that free potable water is provided on request to customers where it is reasonably available.
- 4) The responsible person who is any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question, must ensure that—
- where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - beer or cider: ½ pint;
    - gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - still wine in a glass: 125 ml;
  - these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

### **Club Premises Certificates authorising the supply of alcohol for consumption on or off the premises, or both (Additional Mandatory Condition for Age Verification Policy and Under Duty+VAT Sales)**

- 1) (1) The club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- a holographic mark, or
  - an ultraviolet feature.
- 2) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2(a) For the purposes of the condition set out in paragraph 1—
- “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- P is the permitted price,
- D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

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- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.