

Secretary of State's Guidance 2009

- 1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken:
- The licensing objectives**
- The prevention of crime and disorder.
 - Public safety.
 - The prevention of public nuisance.
 - The protection of children from harm.
- 1.3 Each objective is of equal importance. It is important to note that there are no other licensing objectives, so that these four objectives are paramount considerations at all times.
- 1.4 But the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:
- the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed premises of entertainment;
 - the introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet customers' expectations;
 - greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
 - the encouragement of more family friendly premises where younger children can be free to go with the family;
 - the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities; and
 - the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring.
- 1.15 Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case.
- 1.19 The four licensing objectives should be paramount considerations at all times and licensing authorities should always consider the individual merits of a case.
- 1.26 Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or (once the smoking ban comes into force) in a smoking shelter, where and to the extent that these matters are within their control.
- 2.4 The essential purpose of the licence or certificate in this context is to regulate behaviour on premises and access to them where this relates to licensable activities

and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents, but can directly impact on the behaviour of customers on, or in the immediate vicinity of, the premises as they seek to enter or leave.

- 2.4 The essential purpose of the licence or certificate in this context is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents, but can directly impact on the behaviour of customers on, or in the immediate vicinity of, the premises as they seek to enter or leave.
- 2.10 A condition must also be capable of being met. For example, while beer glasses may be available in toughened glass, wine glasses may not. Licensing authorities should carefully consider conditions of this kind to ensure that they are not only necessary but both practical and achievable.
- 2.32 The 2003 Act requires licensing authorities (following receipt of relevant representations) and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.35 As with all conditions, it will be clear that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the vicinity of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be necessary.
- 2.36 Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise in the immediate vicinity of the premises may also prove necessary to address any disturbance anticipated as customers enter and leave.
- 2.37 Measures to control light pollution will also require careful thought. Bright lighting outside premises considered necessary to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

- 2.38 In the context of preventing public nuisance, it is again essential that conditions are focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives.
- 2.39 Beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

RB Kingston's Licensing Policy

7. Through this policy and the implementation of the Act the Council will seek to protect the amenity of local residents in so far as the Act and the need for the fair treatment of applicants permit. However, the Council's powers under the Act are only one means by which these objectives may be met and the Act must not be regarded as the only method for resolving all problems that result from the use of premises for leisure pursuits and associated night-time activity.
11. The Conditions that the Council imposes will only relate to matters which the licensee can be expected to control and such conditions will therefore only relate to the premises themselves and the vicinity thereof.
28. Unless it can be proven that the terminal hours required will cause adverse and unacceptable effects on those living in the surrounding area or amenities the assumption shall be that the terminal hours requested would be allowed.
41. The Council will seek to protect the amenities of residents and businesses in the vicinity of licensed premises as far as that is practicable. Therefore when considering applications regard will be had to the following:
- procedures for the control of behaviour of customers queuing to gain admission
 - sound proofing and other measures to prevent noise escaping from the premises
 - installation of a sound limitation device if loud levels of music are played
 - minimising nuisance from open areas such as beer gardens and patios
 - steps to be taken to prevent nuisance from the delivery and disposal of bottles etc.
 - steps to be taken to minimise nuisance which may be caused by persons leaving the premises such as:
 - display of notices requesting patrons to leave quietly
 - loudspeaker announcements at the end of performances
 - collection of litter in the immediate area
 - provision and maintenance of refuse bins for disposal of takeaway foodstuffs

- banning of patrons who are known to cause nuisance when leaving the premises

42. The Council will carry out its licensing functions so as to promote the prevention of crime and disorder by ensuring that licensees take measures to regulate the behaviour of persons on the premises and patrons who are in the vicinity.