

Project Background

In July 2012, the Institute of Licensing (IoL) announced its intention to develop good practice guidance in relation to licence conditions for premises licences under the Licensing Act 2003.

The move was a response to the legacy of the Licensing Act transition, and the continuing inconsistency in the approach to licence conditions, illustrated through licences overloaded with conditions, together with unenforceable and inappropriate conditions.

In undertaking the project, the IoL aims to provide clear guidance to all parties on the proper and effective use of conditions, with guiding principles and a pool of conditions designed to provide appropriate wording of conditions that can be individually considered for inclusion on a premises licence where it is appropriate to do so.

In order to start the project, we asked for sample conditions and operating schedules, and we received a huge amount of information as a result for which we are grateful.

We are now in a position to seek views on the draft guidance document and the conditions provided within it. It is important to us to gather as many views as possible, so please do take the time to go through this consultation survey and give us your views.

The full draft guidance is available via the IoL's website:

http://www.instituteoflicensing.org/content.aspx?page=GUIDANCE_ON_PREMISES_LICENCE_CONDITIONS

The consultation survey will close on 30 September 2015.

ABOUT YOU

Individual contact details will not be published, although we may publish organisations in an acknowledgement list.

Contact information

Name:

Company:

Email Address:

Phone Number:

Type of organisation:

- Local authority Industry operator
- Police authority Legal practice

Other (please specify)

What is your job role?

Are you an IoL member?

- Yes No

IoL region

- | | | |
|-------------------------------------|--|-------------------------------------|
| <input type="radio"/> Eastern | <input type="radio"/> North East | <input type="radio"/> South West |
| <input type="radio"/> East Midlands | <input type="radio"/> Northern Ireland | <input type="radio"/> Wales |
| <input type="radio"/> Home Counties | <input type="radio"/> North West | <input type="radio"/> West Midlands |
| <input type="radio"/> London | <input type="radio"/> South East | |

The guiding principles

Please ensure that you read the full consultation document which contains our guiding principles alongside the conditions contained within this survey.

The consultation document can be accessed via:

http://www.instituteoflicensing.org/content.aspx?page=GUIDANCE_ON_PREMISES_LICENCE_CONDITIONS

The 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 model condition does not suit the individual case it must be tailored accordingly.

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.

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;

And, finally:

- 7) The fewer conditions the better.

We consider each of these guiding principles in turn within the full consultation document.

Do you agree with guiding principles as set out within the consultation document?

- Strongly Agree
- Agree
- Don't know
- Disagree
- Strongly Disagree

Please add your comments including your reasons if you do not agree or don't know

The (DRAFT) Conditions

UNDER NO CIRCUMSTANCE SHOULD ANY LICENSING AUTHORITY REGARD THESE CONDITIONS AS STANDARD CONDITIONS TO BE AUTOMATICALLY IMPOSED ON LICENCES.

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.

The (DRAFT) Conditions: Admission

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

1. No person under the age of 18 shall 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 shall 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 shall be permitted to enter or leave the premises by means of [specified entrances].
5. All persons entering or re-entering the premises shall 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 shall be supervised at all times by door supervisors.
7. Any [designated] queuing area shall be within suitable barriers.
8. No more than (insert number) customers shall be permitted on the premises at any one time.

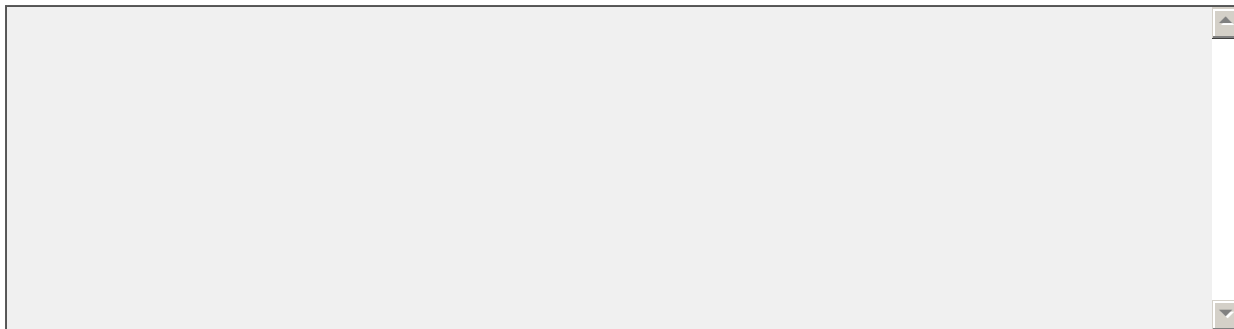
DESIGNATED SMOKING AREAS

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

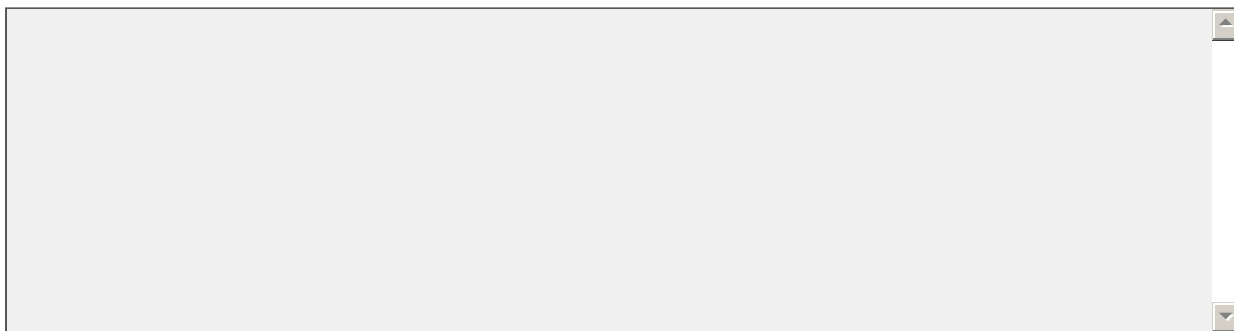
Please give us your views about the conditions listed above as example conditions relating to admission.

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:



Please give details if you think that other conditions should be included in the list



The (DRAFT) Conditions: Alcohol

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

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)

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.

Please give us your views about the conditions listed above as example conditions relating to alcohol.

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: Boxing or Wrestling or indoor sports

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

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.

Please give us your views about the conditions listed above as example conditions relating to Boxing or Wrestling or indoor sports

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: CCTV

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

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.

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.

CCTV DRAFT CONDITIONS:

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).

Please give us your views about the conditions listed above as example conditions relating to CCTV.

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: Deliveries

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

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

Please give us your views about the conditions listed above as example conditions relating to deliveries

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: Dispersals

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

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]

Please give us your views about the conditions listed above as example conditions relating to dispersals

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: Glass

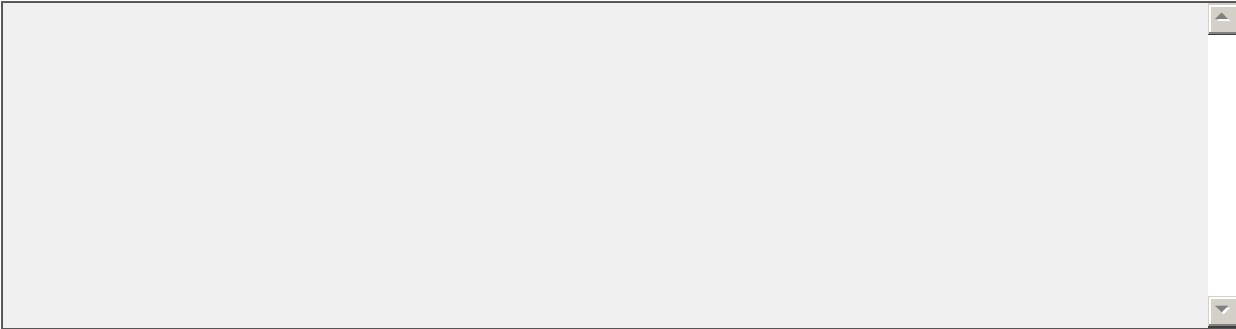
Under no circumstance should any licensing authority regard these conditions as standard conditions to be automatically imposed on licences.

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

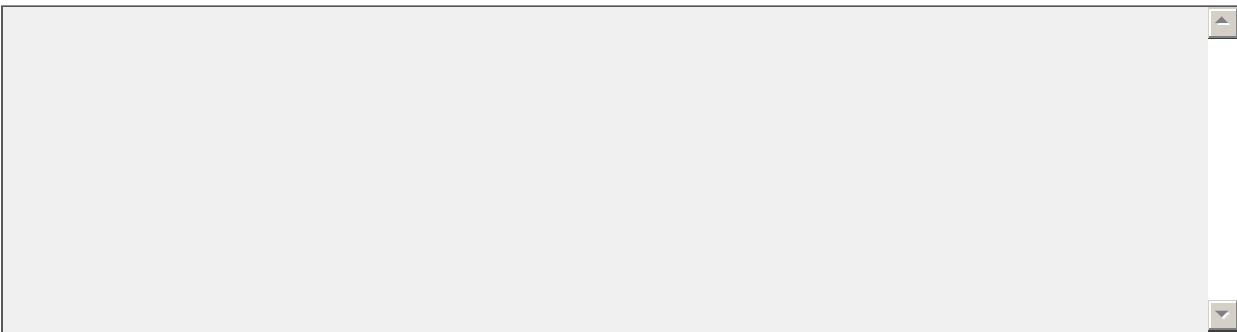
Please give us your views about the conditions listed above as example conditions relating to glass

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:



Please give details if you think that other conditions should be included in the list



The (DRAFT) Conditions: Large Events

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

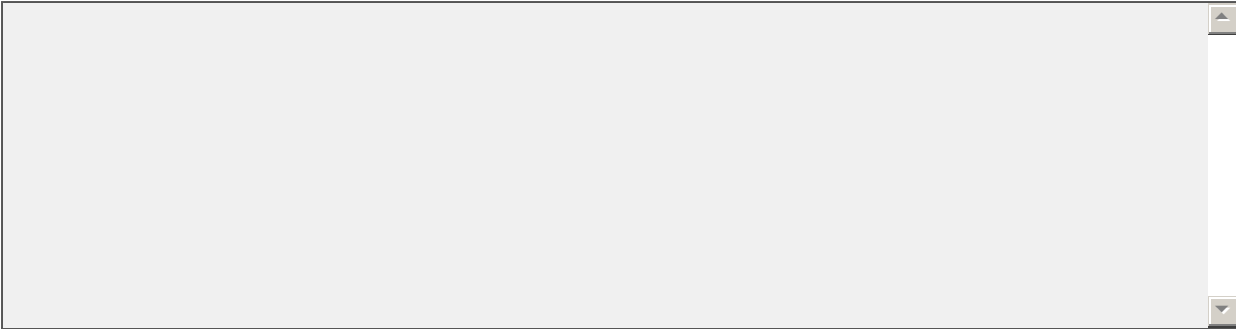
21. The Premises licence Holder must comply with the Event Management Plan submitted to and approved by the Licensing Authority and no changes will be made to the Event Management Plan without the prior written consent of the Licensing Authority. *

* Event Mgt plan can be drawn up in consultation with the Safety Advisory Group and Responsible Authorities.

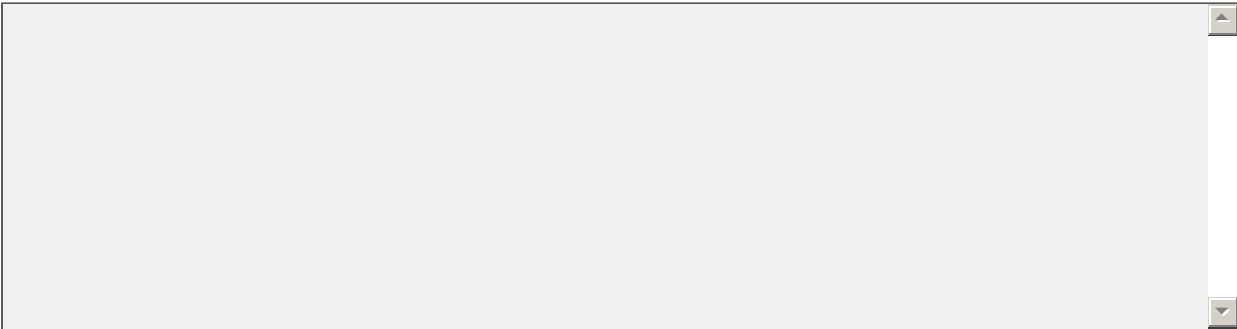
Please give us your views about the conditions listed above as example conditions relating to large events

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:



Please give details if you think that other conditions should be included in the list



The (DRAFT) Conditions: Late Night Refreshments

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

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

Please give us your views about the conditions listed above as example conditions relating to late night refreshments

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: Noise

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

'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*. 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.

* See *Developing Retail Ltd v East Hampshire Magistrates' Court* [2011] EWHC (Admin)

Institute of Licensing -

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. *

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].

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].

* 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.

Please give us your views about the conditions listed above as example conditions relating to noise

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

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

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.

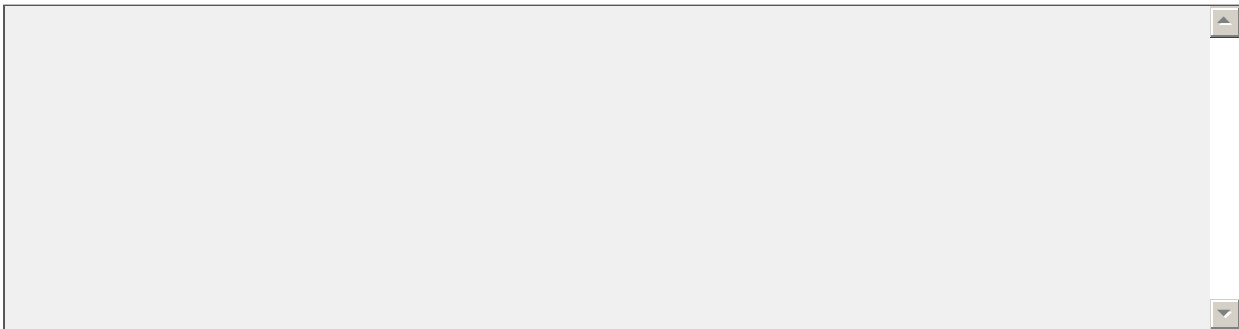
Please give us your views about the conditions listed above as example conditions relating to outdoor areas

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:



Please give details if you think that other conditions should be included in the list



The (DRAFT) Conditions: Records

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

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.

Please give us your views about the conditions listed above as example conditions relating to records

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: SIA (door supervisors)

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

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.

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]. *

* The "industry standard" is generally regarded as a ratio of 1 door supervisor to 100 customers but this will vary according to circumstances..

Please give us your views about the conditions listed above as example conditions relating to door supervisors

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: Staff

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

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.

Please give us your views about the conditions listed above as example conditions relating to staff

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

The (DRAFT) Conditions: Waste

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

- 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.

Please give us your views about the conditions listed above as example conditions relating to waste

- Agree with the conditions as listed
- Disagree with the conditions as listed
- There are other conditions which should be included

Please give details where you disagree with the conditions listed:

Please give details if you think that other conditions should be included in the list

Additional comments

Do you have any other observations or comments on the draft conditions and the guiding principles? Are there areas you feel we should have covered either in more detail or which haven't been covered by any of the conditions at present?

- Yes - comments below No further comments

Comments:

Many thanks for taking the time to contribute your views for our consideration. The consultation will formally close on 30th September and we will publish our response in due course.