



Guidance for licensees on how to prevent public nuisance

Officers from the Council's Environmental Health Section have produced this guide to help you understand what the main public nuisance issues are likely to be for your business, how to assess their impact and how to control them. A self-assessment checklist is provided at the end of the notes to assist you.

If you require advice on the interpretation and compliance with the Licensing Act 2003 or other legislation that affects your business you are recommended to consult with your own solicitor or professional adviser for legal advice.

If English is not your first language and you would like more information about this document, or if you require information in large print or braille or tape, please contact (01325) 388351.

اگر آپ کو یہ کتابچہ انگریزی کے علاوہ کسی دوسری زبان میں درکار ہو تو میراٹے میریاٹی ٹیلیفون نمبر 01325 388351 پر فون کر کے حوالہ نمبر پتا کریں۔

ਜੇ ਇਹ ਪਰਚਾ ਤੁਹਾਨੂੰ ਅਗਰੇਜੀ ਤੋਂ ਬਿਨਾਂ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਸਾਨੂੰ ਨੰਬਰ 01325 388351 'ਤੇ ਫੋਨ ਕਰੋ ਅਤੇ ਰੈਫਰੈਂਸ (ਹਵਾਲਾ) ਨੰਬਰ ਦੱਸੋ।

यदि आप यह प्रकाशन अंग्रेजी के अलावा अन्य भाषा में चाहते हैं तो कृपया संदर्भ नम्बर (रेफरन्स नम्बर) बताकर निम्नलिखित 01325 388351 पर संपर्क करें।

如果你需要其它語言的版本，請與以下電話聯係並報出參考號碼：01325 388351

যদি আপনার ইংরেজী ছাড়া অন্য কোন ভাষায় এই প্রকাশনাটির দরকার থাকে, তাহলে 01325 388351 নম্বরে ফোন করুন এবং সূত্র নম্বর উল্লেখ করুন।

إذا رغبتم الحصول على هذه النشرة بلغة أخرى غير اللغة الإنجليزية نرجو

الاتصال بنا على رقم الهاتف التالي : 01325 388351 + مع ذكر رقم الإشارة.

Before the Council's Licensing Authority will issue a licence it must be satisfied that you can comply with the four key objectives of the Act:

- To prevent crime & disorder
- To look after public safety
- To protect children from harm
- To prevent public nuisance

You must demonstrate how you will comply with these objectives within an Operating Schedule that you submit along with your application form. The Licensing Authority may not grant the licence, or may vary or attach condition to ensure the above objectives are met. The Licensing Authority will listen to the views of Responsible Authorities (listed at the back of this publication), as well as other interested parties (such as local residents) before making its decision.

A thoughtful and well presented Operating Schedule will give confidence to the Licensing Authority and Responsible Authorities that you have properly considered public nuisance issues and that you will properly control them.

What is Public Nuisance?

Public nuisance is a broad concept, which concerns how the activity of one person (or business) affects the rights of another - e.g. how noise from playing music interferes with another person's right to sleep. The degree to which activities are likely cause public nuisance will depend on a number of factors, including:

- The time of day/night when they take place.
- How frequently activities take place.
- How near people that may be affected are.
- The design, structure and layout of your premises.
- How well the activities are managed.

This guide concentrates on four specific areas associated with licensed premises that need to be addressed in order to prevent public nuisance:

- A. Noise,
- B. Odour,
- C. Litter, waste and street fouling,
- D. Light pollution.

As well as routine activities, you should also bear in mind temporary or one-off events such as parties and bank holiday arrangements can cause problems and may require greater management control.

You should also bear in mind the need to comply with other legal requirements e.g. structural works which may need planning and building control approval, or your present planning permission may restrict the hours when you can open – having a licence does not override other regulatory controls.

A. NOISE CONTROL

Noise can come either directly, or indirectly from licensed premises. Direct noise, such as that from entertainment activity, will be under your direct control. Indirect noise, such as that from vehicles and patrons coming to and from the premises, may not be under your direct control, but you can strongly influence it.

Typical noise sources include:-

- Sound amplification systems and entertainment in general
- Ventilation and air-conditioning units

- Chiller-units and beer pumps
- Handling of barrels, kegs, cylinders and bottles outside
- Vehicles (including taxis and delivery vehicles) and customers
- Customers, both inside and outside the premises
- Outdoor play areas and beer gardens
- Fireworks

If your premise is connected to another “noise sensitive” premise (such as a dwelling or office) you will need to take extra care to ensure excessive noise and vibration does not filter through the structure of the building. You are advised to seek a specialist noise consultant in such circumstances. The Institute of Acoustics and the Association of Noise Consultants have a list of experts in this field. (see table at the back of this booklet for contact details).

Noise Control - what you need to do

You need to take all reasonable steps to ensure:-

Noise is not audible at sensitive locations, such as; dwellings, hospitals, hotels and other business premises (don't forget the residential parts of other licensed premises in the area).

Noise does not cause unreasonable disturbance to the wider public, such as passers-by and people using public facilities.

Greater control measures are needed for premises that have regular entertainment, and/or where the venue is operated late at night (after 11pm).

Within the premises you can:-

Keep windows, doors etc. closed – do not however forget that for health and safety reasons it is very important to ensure the premises is properly ventilated and access to emergency exits is not restricted.

Provide acoustically treated ventilation/air conditioning – avoiding the need for opening windows.

Use a sound-lobby (with two sets of self-closing doors) at the entrance / exit of premises.

Provide sound insulation to emergency exit doors and extractor fans.

Keep speakers within the premises, and do not position them near to openings such as doors or windows.

Do not deliberately play, or direct music outside the premises as a means of attracting custom.

At the source of noise you can:-

Play sound amplification systems through a sound limiting device.

Use in-house speakers rather than artist and DJ speaker systems.

Provide sound insulated enclosures to external plant and machinery.

Provide sound insulation to ventilation ductwork and outlets.

Use anti-vibration mountings for speakers.

Use rubber matting and handling aids for the movement of barrels, cylinders, bottles etc.

Provide solid fencing/barriers around car parking, play areas and beer gardens etc.

In addition you can:-

Ensure all staff, DJ's and artists understand your noise control requirements – provide training.

Operate at realistic times, which will not impact on others.

Use different finishing times for different parts of your operation – e.g. finish entertainment earlier than alcohol or food sales.

Play relaxing or calming music towards the end of an event and allow customers to leave the premises naturally rather than being ushered out immediately after an event has finished.

Use outdoor areas at reasonable times and do not remove waste and bottles late at night.

Use signs to advise patrons and staff to be quiet when leaving premises. Ban people from the premises who do not cooperate.

Consider designating a specific taxi firm, who you know will behave responsibly, for staff and customers to use and ensure taxi drivers do not use the vehicle horn to attract attention when collecting passengers.

Arrange for deliveries to be made at reasonable times.

Carry out regular monitoring checks to ensure noise is being adequately controlled. This may include manager walking the area/streets around the premises.

You may find it useful to refer to the following publications about controlling noise:-

The Institute of Acoustics Guide: “Good Practice Guide on the Control of Noise from Pubs and Clubs” – tel. 01727 848 195.

The British Beer & Pub Association Guide: “Effective Management of Noise from Licensed Premises” – tel. 020 7627 9191.

Special note: Employers have a duty under health and safety law to protect their employees from hearing damage caused by excessive noise. DJ's, bar staff and others working in areas where loud amplified music is played are particularly at risk. If you employ staff who work in a noisy environment you should assess their level of noise exposure and control excessive noise. This requirement is not directly related to the Licensing Act and need not form part of your application or operating schedule.

B. ODOUR CONTROL (Offensive smells)

The main sources of odour from licensed premises are due to waste and bottle storage areas, drainage systems, and discharged air from kitchen extraction systems.

Waste

Controlling odour from waste and bottle storage areas is by good management practice including:

- Using sealed waste bins with close fitting lids.
- Arranging that waste is collected on a regular basis by a reputable/licensed waste carrier.
- Screening waste storage areas from sight and making sure the area can be properly cleaned and has adequate drainage.
- Using a regular cleaning programme for all storage areas and waste bins.

Drainage Systems

Odour comes from blocked and inadequately vented drainage systems and can be avoided by:

- Ensuring food waste is not put into the drainage system.
- Providing grease-trap(s) to the drainage outlet from kitchens.
- Regularly clean grease-traps and drainage systems.
- Ventilating the head of the drainage system is at a high level using a vent stack.

Cooking Smells

Most commercial kitchens will require a mechanical extraction system, and the type and size will depend on the size of the cooking facility, type of food prepared and type of cooking appliances used. You may need to get advice from specialist air handling engineers about controlling odour from kitchen air extraction systems. Key issues when installing air extraction equipment that must be taken into account are:

- The extracted air should be discharged at a high level, taking into account other buildings in the area – we recommend at least 1 metre above highest point of the licensed premises, or other nearby buildings.
- The air being extracted from the cooking area should be replaced by clean air into the kitchen – ideally supplied by mechanical means. Opening windows and doors should be avoided.
- The extraction system should be designed to ensure the flow of air is not restricted by acute angles in ductwork, dirty filters, inadequate fans and cowls at the exit point.
- Using grease filters and other odour control techniques such as carbon filters, electrostatic precipitation, scrubbers and neutralising agents etc. Specialist advice should be taken on the suitability of such techniques.
- Noise from fan housings does not cause a nuisance to others.
- Effective and regular programme of cleaning and maintenance is of vital importance.

When installing ductwork ask the Planning and Building Control departments of the Council to find out if you need permission. (see the Contact List at the end for details)

In addition to the above, you should take care to ensure cooking odours do not filter through the building structure into adjoining premises by sealing gaps around services in party walls and ceilings.

Mobile traders should think carefully about where they site their vehicle in order to avoid odour problems.

The main guidance document on this subject is the “Control of Odour and Noise from Commercial Kitchen Exhaust Systems” (CIE 150:2003). This is available from the Department of Environment, Food and Rural Affairs (DEFRA) – tel. 020 7238 6000.

C. CONTROL OF LITTER, WASTE AND STREET FOULING

Licensed premises of all types can potentially cause public nuisance from litter and waste. There are a number of laws relating to proper waste collection and disposal, not least of which is the “duty of care” to ensure any waste is properly contained and controlled while in the operator’s possession, and that it is collected by a reputable waste carrier. The Licensing Act does not duplicate these laws, but you will need to show that you have good waste management practices in order to prevent public nuisance.

Fouling by people urinating, vomiting and even defecating in the street, as well as blood from drink related violence or accidents is becoming an increasing problem – particularly in our town centre. With extended drinking hours, and possible increased alcohol consumption, the potential for such anti-social behaviour is much greater. Clearly the individuals concerned are ultimately responsible for these actions, which in some cases can result in criminal action being taken. However, you can take action to help prevent this happening and make our streets an attractive environment for all.

Uncontrolled litter, waste and street fouling is unsightly and can lead to a negative image of the area harm the reputation of your business and the town. In some cases it may cause offensive odour; attract rats and insects and be a public health risk; cause people to slip, trip and injure themselves on broken glass.

Typical examples of litter, waste and street fouling that may cause problems include take-away packaging and food dropped by customers; ‘wind-blown’ waste and litter

from refuse storage areas; discarded and broken bottles, glasses and cans, promotional leaflets (flyers) and posters; and people who have consumed too much alcohol and urinate and vomit in the street.

What you need to do:

- Arrange a waste collection contract with a specialist contractor. The Council can provide this service – telephone 01325 347448 and ask for Carol Carter in Environmental Services, Community Services Department.
- Make sure that there are enough storage facilities for waste to prevent any overspill from containers – we recommend fully contained and lockable bins, which can be thoroughly cleaned and kept away or screened from public areas.
- Reduce packaging to a minimum and recycle bottles, cans and other waste wherever possible.
- Set up a litter control plan to assess the scale of the litter problem and carry out litter patrols on a regular basis. If you wish to discuss litter removal or the possibility of sponsoring a litter bin in your area contact Community Services – Customer Services (tel. 01325 388777).
- Encourage customers to dispose of litter responsibly using posters inside premises and on bins. Discourage customers from leaving premises drinking from open cans and bottles.
- Arrange for the area around your premises to be cleared of litter and fouling on a regular basis, and always at the close of business.
- If you are a mobile trader you will need to provide a suitable waste bin and take your waste away for proper disposal.
- Cut down on the use of promotional leaflets and publicity material. Only hand flyers directly to the public – do not put on vehicle windscreens. Ensure a litter bin is near to the distribution point and clear discarded flyers immediately.
- Provide clean and accessible toilet facilities for customers to use.
- Challenge those who foul the area around your premises.

The main guidance document on this subject is “Reducing Litter by Food on the Go - Voluntary Code of Practice for the Fast Food Industry”. This is available from the Department of Environment, Food and Rural Affairs (DEFRA) – tel. 020 7238 6000.

D. LIGHT POLLUTION CONTROL

Outdoor artificial lighting is used for a number of reasons, including for work, recreation, security, safety, advertising, display and to create an pleasant atmosphere where people gather socially. As many of the premises operating under the Licensing Act will use outdoor lighting late at night, it is important to ensure that it does not become a nuisance to others. Light ‘spilling’ onto other property can cause annoyance, distraction and discomfort and may cause driving problems by glaring into drivers’ eyes or competing with signs and other traffic signals.

The design of larger outdoor lighting installations will need advice from a specialist Lighting Engineer, but you can control even the smallest outdoor installation by:-

- Not “over-lighting” an area – use lighting with an appropriate output for the required purpose. Take particular care when selecting tungsten or halogen lighting.
- Siting the lighting carefully and aiming the beam away from sensitive premises and transport systems. Take advantage of natural screening and barriers.
- Using high mounting positions and directing light downwards, rather than mounting it low and using horizontal light beams.

- Using properly designed screens, baffles, hoods and louvres on lights to control the direction of the light beam.
- Turning off lighting when no longer required and using timed automatic cut-off switches, but bearing in mind possible safety issues this may create.
- Ensuring lights activated by sensors are properly set and used appropriately – i.e. the light is not repeatedly switching on and off, as this itself may cause annoyance.

Special Note: You may wish to provide additional security lighting to poorly lit areas around your premises in order to improve safety and deter crime. You are encouraged to do so as this is a key aim of the Licensing Act – just take care that the lighting does not cause nuisance to others.

The main guidance document on this subject is the “Guide on the Limitation of the Obtrusive Effects of Obtrusive Light from Outdoor Lighting Installations” (CIE 150:2003). This is available from the Chartered Institute of Building Services Engineers (CIBSE) – tel. 020 8675 5211.

Further Help

Information about the Licensing Act is available on the Government website at www.culture.gov.uk.

A copy of the Council's Licensing Policy is available on the Council website www.darlington.gov.uk or as a hard copy on request. A wide range of guidance on the application of the Licensing Act 2003 is also provided.

Useful Contacts

Department of Culture Media & Sport (DCMS) 020 7211 6200

www.culture.gov.uk

Department of Environment, Food & Rural Affairs (DEFRA) 08459 33 55 77

www.defra.gov.uk

British Beer and Pub Association 0207627 9123 www.beerandpub.com

The Institute of Lighting Engineers 01788 576 492 www.ile.org.uk

The Association of Noise Consultants 01727 848 195

www.association-of-noise-consultants.co.uk

The Institute of Acoustics 01727 848 195 www.ioa.org.uk

Darlington Borough Council

- Licensing Section 01325 388577 licensing@darlington.gov.

- Environmental Heath (Health & Safety - Food Safety – Pollution) 01325 388799
www.publicprotection@darlington.gov.uk

- Community Services (Street Cleansing 01325 388777 & Waste collection 01325 347448)

- Planning 01325 388799 www.planning.enquiries@darlington.gov.uk

- Building Control 01325 370827 www.buildingcontrolenquiries@darlington.gov.uk

LICENSING ACT 2003

SELF ASSESSMENT FORM

RISK OF CAUSING NUISANCE

If you are operating licensed premises you should from time to time consider what risk there is of your business causing public nuisance and take action to control that nuisance as a good neighbour. This self assessment form will assist you do that and help you in writing an operating schedule to accompany a licensing application.

If you are a new business or have difficulty in completing the assessment you should contact a member of the Council's Environmental Health Commercial team on 01325 388799 or e mail publicprotection@darlington.gov.uk.

This is intended to be a simple process and by ticking the box for each question identify if the risk is low, medium or high. It is likely that a combination of low, medium and high risks will be identified for different parts of the assessment. Having carried out the risk assessment and identified possible sources of public nuisance you need to decide how you will control them. You should then focus your attention as a priority in controlling those issues identified as a high risk. You may find it helpful to refer to the information in the guidance. The control measures can then be referred to in your operating schedule submitted with your licence application.

Your Risk Assessment:

- 1 Identify if activities at the premises have changed from what took place previously. For example are you having live entertainment / discos where you have not done so previously, or remaining open later into the night?**

<i>LOW</i>	<i>MEDIUM</i>	<i>HIGH</i>
No change in activity	Slight change in activity	Significant change in activity
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- 2 Carry out a "Noise Check" to find out how well your premise contains noise.**

Noise Check:

- Go the nearby "noise sensitive" premises (dwellings, office etc) while noise sources are operating – such as when entertainment is ongoing. You may reproduce normal entertainment for this exercise by playing jukebox music at a noise level that your entertainment is played at.
- Open windows if these are necessary for ventilation.
- Open entrance doors to replicate a customer entering the premises.
- Carry out this exercise at the latest time when the noise will be ongoing – ie near the end of the night/evening when it generally quieter outside.
- How much noise can you hear?

<i>LOW</i>	<i>MEDIUM</i>	<i>HIGH</i>
No Noise	Slightly hear noise, but not clearly	Can clearly hear the noise
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3. Carry out an “Outdoor Check” to find out how much odour your premises makes.

Odour Check:
<ul style="list-style-type: none"> • Take the role of someone passing by your premises. What odour can you detect from your waste and bottle storage areas and drainage system? • If you cook food, check the odour coming from your extraction system. • Do this by going down-wind from the extraction point (you may have to go some distance away) to the nearest dwelling or other premises that may be affected. • Ensure the person making the assessment has not just come from the cooking area as their sense of smell will be affected. • How much odour can you detect?

LOW
No Odour

MEDIUM
Slight Odour

HIGH
Strong Odour

4. Carry out a check to find out how much litter and street-fouling comes from your premises or ends up near it.

Litter Check:
<ul style="list-style-type: none"> • At times during, and always at the end of business survey the area around your premises and assess the amount of litter, waste, and street fouling that is present. • Be sure to check the rear and sides of the premises as well as the frontage. • Carry out the checks on a number of occasions that represent your typical business operation. • If you hand out flyers – check the area around where they are handed out. • How much litter/street fouling is present?

LOW
No Litter

MEDIUM
Small amount of litter found but no street fouling

HIGH
Vomit, urine or similar is present on at least one occasion, or regular littering is found

5 Carry out a check to find out how much light pollution is coming from your premises.

Light Check:
<ul style="list-style-type: none"> • When it is dark, assess what artificial light is coming from your premises, paying particular attention to external security lighting etc. • How much light is spilling over your boundary onto other premises or is affecting traffic?

LOW
No light spilling beyond the boundary

MEDIUM
Some light beyond the boundary but not directly shining on other property or towards traffic

HIGH
Light shining directly towards other property or traffic