



**West Devon Borough Council**

**DRAFT**

# **Statement of Licensing Policy**

**UNDER THE LICENSING ACT 2003**

For the period **January 2021 to January 2026**

(Approved by Full Council on **XXXXXX**)

## **Contents**

<b>1.</b>	<b>Introduction</b>	<b>Page 4</b>
1.8	Purpose and scope of the Licensing Policy	Page 5
1.9	Description of the Licensing Authority Area	Page 6
1.10	Consultation	Page 7
<b>2.</b>	<b>The Licensing Function</b>	<b>Page 9</b>
2.1	Regulation	Page 9
2.2	The Licensing Authority as a Responsible Authority	Page 10
2.3	Partnership Working	Page 10
2.4	Related Legislation, Policies and Guidance	Page 12
2.5	Integrating Strategies and Avoiding Duplication	Page 17
<b>3.</b>	<b>Promotion of the Licensing Objectives</b>	<b>Page 19</b>
3.5	Prevention of Crime and Disorder	Page 19
3.6	Public Safety	Page 21
3.7	Prevention of Public Nuisance	Page 21
3.8	Protection of Children from Harm	Page 22
<b>4.</b>	<b>The Licensing Process</b>	<b>Page 27</b>
4.1	Applications	Page 27
4.2	Repeat Applications	Page 27
4.3	Beer Gardens and Other Outdoor Spaces	Page 28
4.4	Mobile Vehicles , Internet and Other Delivery Sales	Page 28
4.5	Large Scale Public Events and the ESAG	Page 29
4.6	Licensed Vessels	Page 29
4.7	Fees	Page 29
4.8	Late Night Levy	Page 30
4.9	Early Morning Restriction Orders	Page 30
4.10	Temporary Event Notices	Page 31
4.11	Personal Licences	Page 33

<b>5.</b>	<b>Decision Making</b>	<b>Page 34</b>
5.1	Determining Applications	Page 34
5.2	Representations	Page 35
5.3	Irreverent, Vexatious and Frivolous Representations	Page 35
5.4	Anonymous Representations	Page 36
5.5	Licensing Hours	Page 37
5.6	Licence Conditions	Page 38
5.7	Designated Premises Supervisors	Page 40
5.8	Disapplication of Conditions for Community Premises	Page 40
5.9	Cumulative Impact	Page 41
<b>6.</b>	<b>Enforcement</b>	<b>Page 44</b>
6.1	Enforcement Activity and Policy	Page 44
6.2	Review	Page 44
<b>7.</b>	<b>Further Information</b>	<b>Page 46</b>
7.4	Equality and Human Rights Issues	Page 46

## **Appendices**

<b>Appendix A</b>	<b>Recommended Delegation of Functions</b>	<b>Page 47</b>
<b>Appendix B</b>	<b>Glossary of Terms</b>	<b>Page 48</b>
<b>Appendix C</b>	<b>Responsible Authorities</b>	<b>Page 50</b>
<b>Appendix D</b>	<b>List of Consultees</b>	<b>Page 52</b>
<b>Appendix E</b>	<b>Event Safety Advisory Group</b>	<b>Page 53</b>
<b>Appendix F</b>	<b>Safeguarding of Children, Young People and Adults with Care and Support Needs</b>	<b>Page 54</b>

# 1. Introduction

- 1.1 This is the **fourth** review of our Statement of Licensing Policy which West Devon Borough Council ('the Council') is required, by law, to carry out every five years. Such a policy must be published before the Authority carries out any function in respect of individual applications made under the Act.
- 1.2 Since the Licensing Act 2003 came into force in November 2005, the Authority has gained valuable experience in the administration and enforcement of the legislation. We have been keen to develop good working relationships with all licence holders and hope we have succeeded in achieving this aim. We recognise that licensed premises come in all shapes and sizes – whether they are a pub, a restaurant, a community hall or the village shop selling a few bottles of wine – and that our licensing policy must be sufficiently flexible to reflect their differing character and needs. This policy therefore seeks to provide information and guidance to applicants, licence holders, interested parties and responsible authorities on the general approach that the Authority will take when assessing applications and sets out the operating standards we will expect to see.
- 1.3 This revision of our Policy has been carried out as part of the closer working arrangements between Devon authorities. It also makes good sense – given similar characteristics and demographics of some of the Districts and Boroughs – to align our policies as closely as practicable in order to achieve a consistent approach to regulation. This should assist the Responsible Authorities – particularly the police – as it will provide a common baseline for regulation throughout the Authority area.
- 1.4 We will endeavour to apply the Policy fairly, consistently and in a way which promotes the objectives set out in the legislation. Good decision-making makes for good licensing regulation. Officers and Members of the Authority are trained to have a sound understanding of licensing law and the principles which underpin it. This means that applicants and licence holders can be confident that their applications will be dealt with competently and professionally.
- 1.5 The leisure and entertainment industry is a major contributor to the economy of the Borough. It attracts tourists and visitors to our area, makes for vibrant towns and communities and is a major employer. The Council recognises the value of the industry to the economic health of the area and is keen to promote well managed premises. However, the Council – as the Authority – also has to take account of the needs of its residents who have the fundamental human right to the peaceful enjoyment of their property and possessions. Through this policy, the authority will try to reconcile these often conflicting demands, balancing the legitimate needs of business with the rights of persons living near licensed premises.
- 1.6 In the preparation and publication of this policy West Devon Borough Council as the Licensing Authority has had regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003, including the amended guidance published in **April 2018**. Nothing in this policy document should be

regarded or interpreted as an indication that any requirement of licensing or other law may be overridden. Applicants and licence holders who require legal advice on a specific licensing topic are advised to consult a licensing solicitor.

- 1.7 The Licensing Authority will keep the policy statement under regular review and make such revisions it feels appropriate. Where revisions are made, the Licensing Authority shall publish a statement of revisions or a revised licensing policy statement.

## 1.8 **Purpose and scope of the Licensing Policy**

- 1.8.1 This Statement of Licensing Policy is based upon the Licensing Act 2003 ("the Act") and is in line with the Home Office Guidance to local authorities and takes effect from **7 January 2021**.

- 1.8.2 **The Policy has four main purposes:**

- **To assist the Licensing Authority in determining licence applications in a consistent and equitable manner;**
- **To inform and advise applicants;**
- **To inform and advise residents and businesses; and**
- **To inform a court at appeal.**

- 1.8.3 **The Policy will support the Licensing Authority in its obligation to promote the following four licensing objectives:**

- **The prevention of crime and disorder;**
- **Public safety;**
- **The prevention of public nuisance;**
- **The protection of children from harm.**

- 1.8.4 **Any departure from the Policy would only be considered when doing so would be of benefit to the promotion of the licensing objectives. Reasons must be given for any departure from policy and it is expected that this would only happen in exceptional circumstances.**

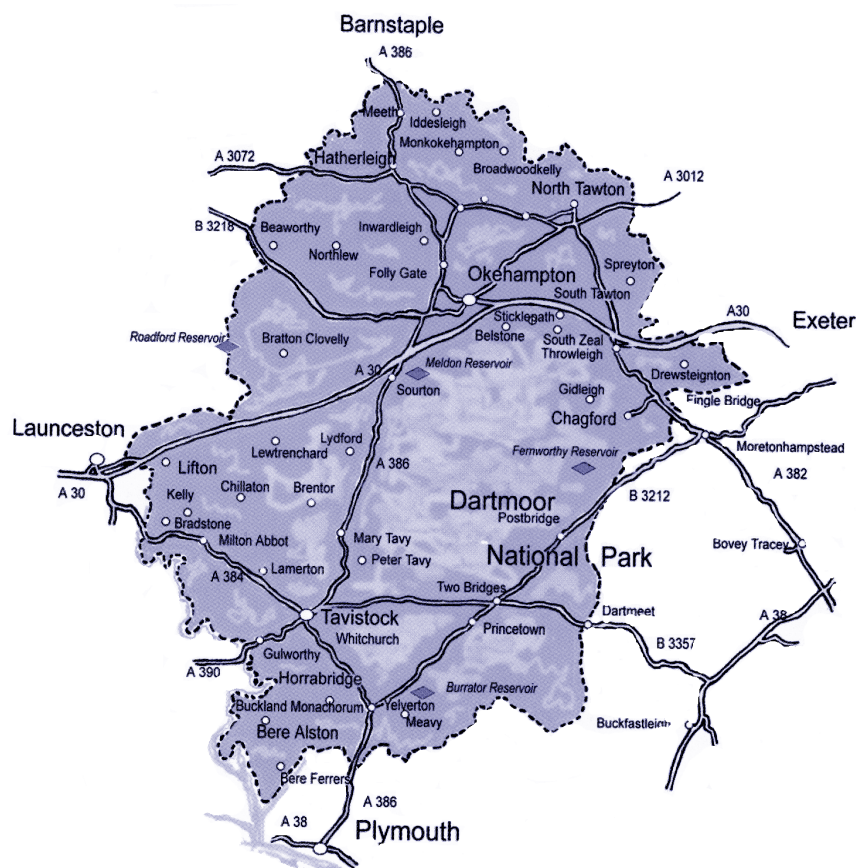
- 1.8.5 This policy relates to all those licensable activities identified as falling within the provisions of the Act wherever they take place, namely: -

- Retail sale of alcohol
- Supply of alcohol to club members
- The supply of hot food and /or hot drink from any premises including food stalls between 11pm and 5am.
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit, including raising money for charity, where the entertainment involves:
  - A performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - Boxing or wrestling entertainment
  - A performance of live music

- Any playing of recorded music
- A performance of dance
- Entertainment of a similar description to live music, recorded music or dance

**1.8.6** The policy encompasses new applications, variations (including transfers and changes of designated premises supervisors), reviews, notices and existing licences.

## **1.9 Description of the Licensing Authority Area**



- 1.9.1** West Devon is one of the largest, geographical local authorities in England with a rural area of 458 square miles, or 1160 square kilometres.
- 1.9.2** The Borough extends from the northern outskirts of Plymouth to within 13 kilometres of Exeter. Its western boundary is the River Tamar on the Cornish border, from which it stretches eastwards and northwards to encompass a major part of the Dartmoor National Park (520 square kilometres).
- 1.9.3** With its historic market towns and beautiful countryside, West Devon is a highly desirable area in which to live.

- 1.9.4 Being predominantly rural in nature; West Devon has a population of 55,800<sup>1</sup> (2019). The largest towns are Tavistock and Okehampton, with populations of 12,280 and 7,647 respectively (National Census 2011) however, nearly 66% of the population of West Devon live outside of these two settlements in the surrounding villages, hamlets and isolated cottages in the countryside.
- 1.9.5 The Borough has a higher proportion of older people than the national average, with a small but steady outward migration of younger people.
- 1.9.6 At the time of preparing this Policy (August 2020), the Authority has responsibility for regulating:
- 287 alcohol-licensed premises and members' clubs
  - 52 non alcohol licensed premises
  - 421 temporary events (2019 figure).
- 1.9.7 This Policy promotes the Council's Core Purpose which is: 'To make a positive impact on the lives of local people by providing valued and easy to use services.' The Council's Core Strategy Themes are 'Homes, Wellbeing, Communities, Council, Enterprise and Environment.'

## **1.10 Consultation**

- 1.10.1 Before determining this Policy, the Licensing Authority (the Authority) consulted with the following statutory consultees, in accordance with the requirements of Licensing Act 2003: -
- the Chief Officer of the Devon & Cornwall Constabulary
  - the Devon & Somerset Fire & Rescue Service
  - Public Health Devon
  - such persons as the Licensing Authority considered to be representative of the holders of premises licences issued by this authority
  - such persons as the Licensing Authority considered to be representative of holders of club premises certificates issued by this authority
  - such persons as the Licensing Authority considered to be representative of holders of personal licences issued by this authority
  - such other persons as the Licensing Authority considered to be representative of businesses and residents in the area
- 1.10.2 The Licensing Authority may consult beyond the statutory requirements to seek comments from particular bodies or representatives of groups associated with the entertainment industry, arts and culture, Community Safety Partnership and the legal profession. Those consulted include a body competent to advise on child protection, Weights and Measures (Trading Standards), Health and Safety Executive, Environmental Health, Planning and Building Control, Maritime and Coastguard Agency and the Environment Agency.

---

<sup>1</sup> Facts and Figures, Devon County Council: <https://www.devon.gov.uk/factsandfigures/data-table/?postId=mid-year-population-estimates&geography=464>

- 1.10.3 A full list of all of the bodies that this Licensing Authority consulted with can be found at Appendix D.
- 1.10.4 Proper weight has been given to the views of all those consulted prior to implementing this Policy.
- 1.10.5 The Policy was formally adopted by the Council on XXXXXX
- 1.10.6 The policy statement will remain in existence for a maximum period of 5 years and will then be subject to review and further consultation.



## 2. The Licensing Function

### 2.1 Regulation

2.1.1 Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.

2.1.2 It is the Licensing Authority's wish to facilitate well-managed premises with licence holders displaying sensitivity to the impact of the premises on the quality of life of persons living and/or working in the vicinity of the premises. The aim of the licensing function is to regulate licensable activities so as to promote the licensing objectives.

2.1.3 The licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as a panacea for solving all problems within the community. In addition to the licensing function there is a breadth of other strategies and mechanisms for addressing these problems, for example:

- planning controls
- **community safety partnerships**
- police enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- powers of police and local authorities under the Anti-Social Behaviour, Crime and Policing Act 2014
- the prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- confiscation of alcohol from adults and children in designated areas (Public Spaces Protection Orders – **see 2.4.4**)
- police powers to close some premises for up to 24hrs in extreme cases of disorder or excessive noise (Licensing Act ss. 160 & 161)
- the power of the police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate (**see 6.2**)

2.1.4 The Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of West Devon, attracting tourists and visitors, making for a vibrant Borough and is a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses. The Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.

2.1.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed

premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

- 2.1.6 Functions under the Act are to be taken or carried out by its licensing committee who may delegate these functions to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. Many of the decisions and functions will be purely administrative in nature and so will be delegated in the interests of speed, efficiency and cost-effectiveness.
- 2.1.7 **The Authority will ensure that all Officers and Members have received adequate and appropriate training for their roles under the Licensing Act 2003.**
- 2.1.8 The schedule of delegated authority in accordance to which applications will be dealt, is attached at Appendix A.

## **2.2 The Licensing Authority as a Responsible Authority**

- 2.2.1 The Licensing Authority is included as one of the Responsible Authorities under the Act. This enables the Licensing Authority to make representations about an application for a premises licence or a club premises certificate, or to apply for a review of a premises licence or club premises certificate.
- 2.2.2 When the Licensing Authority is acting as a responsible authority it is important to maintain a separation of responsibilities within the Authority's Licensing Team so that there is procedural fairness and to avoid a conflict of interest.
- 2.2.3 In these cases, different responsibilities will be allocated to different officers within the Authority. This procedure is set out within the Environmental Health Community of Practice delegation of powers.

## **2.3 Partnership Working**

- 2.3.1 **The Licensing Authority will continue to work in partnership with its neighbouring authorities, South Devon and Dartmoor Community Safety Partnership (CSP), the Responsible Authorities, local businesses and local people in a co-ordinated approach to tackling alcohol-related crime and anti-social behaviour, as well as for the overall promotion of the licensing objectives.**
- 2.3.2 **Police and Community Safety Partnership**
- 2.3.3 **The Licensing Authority looks to the police as the main source of advice on crime and disorder, but where appropriate, we will also seek to involve the local Community Safety Partnership (CSP). It should be noted however that any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations**

#### 2.3.4 Security Industry Authority

2.3.5 In the exercise of its functions, the Licensing Authority seeks to co-operate with the Security Industry Authority (“SIA”) as far as possible and will consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, appear intoxicated by drugs, drug dealers, known sex predators or people carrying firearms do not enter the premises and ensuring that the police are kept informed and / or paramedics called where there are health concerns.

#### 2.3.6 Home Office Immigration Enforcement

2.3.7 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. The Licensing Authority will work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

#### 2.3.8 Public Health

2.3.9 The Director for Public Health in Devon is a responsible authority under the Act, and may make representations in respect of applications for premises licences and club premises certificates, and apply to review licences and certificates.

2.3.10 There is no licensing objective relating purely to public health, and as such any representations or applications made by the Director for Public Health must be based upon one or more of the current licensing objectives. Representations relating solely to public health issues are not relevant under the Act.

2.3.11 However, Public Health may hold relevant data which can be used within the licensing process. In particular, the authority may seek to rely upon public health data if it considers the introduction of a special licensing policy, such as a cumulative impact policy or an early morning alcohol restriction order.

2.3.12 The Licensing Authority will work in partnership with Public Health and other Responsible Authorities with an overall aim to reduce alcohol-related harm.

### 2.3.13 Fire Service

2.3.14 Devon and Somerset Fire and Rescue Service are a responsible authority under the Act and a key source of advice under the public safety licensing objective. The Licensing Authority will work together with the Fire Service in respect of concerns about safety at licensed premises or large events, ensuring relevant information is shared.

### 2.3.15 Better Businesses for All (BBfA)

2.3.16 West Devon Borough Council are fully committed to the Devon and Somerset Better Business for All (BBfA) Regulatory Services Partnership, which is endorsed by the Better Regulatory Delivery Office (BRDO), part of the Department for Business, Innovation and Skills (BIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, whilst maintaining public protection. This document will ensure that the Regulator will work in accordance with the BBfA principles. In doing so the Authority will create an environment and culture which will support our local businesses by making the activity that is being regulated easy to access, simple and clear to understand, whilst ensuring public protection.

2.3.17 The Council will listen to business needs and act in an open and transparent way to help shape the way support is provided, this will be done following business consultations and throughout service use.

2.3.18 Better Business for All is business-focused, using business-led improvements to create better regulation, support business growth and create a level playing field for businesses. In order to achieve this the Policy will be implemented in a consistent manner with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.

## 2.4 **Related Legislation, Policies and Guidance**

2.4.1 When making licensing decisions, the Licensing Authority will have regard to and take into consideration other legislation, strategies, policies and guidance, including: -

### (i) Legislation

- Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder)
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- Equality Act 2010
- Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- Health and Safety at Work etc Act 1974
- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014

- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005
- Town and Country Planning Act 1990
- Private Security Industry Act 2001
- Violent Crime Reduction Act 2006
- Police Reform and Social Responsibility Act 2011
- Live Music Act 2012
- Immigration Act 2016

(ii) Strategies

- Community Safety Partnership Peninsula Strategic Assessment
- Department for Business Innovation & Skills – Age Restricted Products and Services: A Code of Practice for Regulatory Delivery
- Current South Devon and Dartmoor Community Safety Strategy
- Current Government alcohol strategy

(iii) Policies

- Better Regulation Delivery Office: Regulators' Code
- Hampton Principles (see glossary)
- Plymouth and South West Joint Local Plan
- Devon County Council Transport Plan
- West Devon Borough Council's Enforcement Policy
- Enforcement Policies of each Responsible Authority

(iv) Guidance

- Guidance issued under s.182 of the Licensing Act (Home Office)
- Guidance to Health and Safety at Outdoor Events (The Purple Book)
- Guide to Fire Precautions in Existing Places of Entertainment and Like Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network.
- HSE Managing Crowds Safely: A guide for organisers at events and venues
- Technical Standards for Places of Entertainment
- Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- Home Office guide to 'Safer Clubbing'
- Local Government Regulation policy on licensing large events
- The Security Industry Authority's guidance on security at events.

2.4.2 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.

- 2.4.3 The grant of a licence does not imply the approval of other legislative requirements.
- 2.4.4 Public Spaces Protection Order
- 2.4.5 Under the provisions of the Act, consumption of alcohol is not a licensable activity. However, the Authority recognises that consumption of alcohol can be a major contributory factor to disorder and nuisance both within and outside licensed premises. The Council adopted the relevant powers under the Criminal Justice and Police Act 2001 to designate parts of the Borough as places where public consumption of alcohol may be restricted.
- 2.4.6 The Designated Public Place Order (DPPO) has since been replaced by the Public Spaces Protection Order (PSPO) in the Anti-Social Behaviour Crime and Policing Act 2014. PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable.
- 2.4.7 A PSPO may not have effect for a period of more than 3 years, unless extended prior to expiration of the order by the local authority in accordance with regulations.
- 2.4.9 Live Music Act 2012; The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013; The Legislative Reform (Entertainment Licensing) Order 2014
- 2.4.10 Since 2012, the Government has de-regulated various types of entertainment which previously fell under the control of the Licensing Act 2003.
- 2.4.11 Included in this de-regulation are the following:
- the provision of live and recorded music at certain times of the day (dependent upon the nature of the premises and other licences in place);
  - removal of requirement to licence the provision of facilities for making music or dancing;
  - Performance of plays or performance of dance for audiences up to 500 persons;
  - Indoor sporting events for audiences up to 1000 persons
  - Greco-Roman and freestyle wrestling between 8am and 11pm for audiences up to 1000 persons;
  - Exhibition of film that is incidental to another activity;
  - Reduced requirements for travelling circuses.
- 2.4.12 Full details of the de-regulation can be found on GOV.UK. If further clarification is required, it is recommended that applicants contact the Licensing Team prior to providing entertainment.
- 2.4.13 The Authority recognises the importance of encouraging live music as part of the Authority's wider cultural strategy and will endeavour to promote this activity

through its licensing function. However, applicants and licence holders must be aware that, although certain types of live music are no longer licensable, this does not mean that such activity is totally exempt from licensing controls. Also, the Authority would draw to the organisers' attention the legislation within The Environmental Protection Act 1990 to limit noise nuisance. The legal duty on licence holders to promote the licensing objectives remains. A Responsible Authority or any other person may apply for a review of a premises licence where it can be demonstrated that live music provided under the provisions of the Live Music Act undermines any of the licensing objectives.

2.4.14 When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance constitutes live music or not. If in doubt, organisers of events should check with the Licensing Team prior to the event.

#### 2.4.15 Sexual Entertainment Venues

2.4.16 Performances of dance which are "relevant entertainment" within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") are not affected by The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, regardless of the size of the audience or the time of day. "Relevant entertainment" is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.

2.4.17 In almost all cases where a performance of dance is potentially licensable as both the provision of relevant entertainment (under the 1982 Act) and regulated entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act will be required where:

- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
- relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

2.4.18 Where the promoter of a sexual entertainment venue wishes to provide any of the licensable activities as outlined in the Licensing Act 2003, in addition to relevant entertainment, a premises licence will also be required to authorise such activities.

2.4.19 The Council's Sexual Entertainment Venues Policy is the subject of separate public consultation and the adopted policy stands separate from this Licensing Policy. The Sexual Entertainment Venues policy can be viewed on the Council's website.

#### 2.4.20 Gambling Act 2005

2.4.21 The provision of gaming machines and certain forms of low-stakes gambling (e.g. poker, bingo) are permitted in alcohol-licensed premises and qualifying clubs under the Gambling Act 2005. The type of gambling allowed and stakes and prizes are specified in regulations and are set at levels which are designed to keep this form of gaming a low-risk, sociable activity. Generally, such gaming should be ancillary to the primary use of the premises. The Authority may take action against a premise where it believes that gaming is becoming the dominant activity or is having a detrimental effect on the licensing objectives.

2.4.22 The Council has adopted a Gambling Act Policy which stands separate from this Licensing Policy. The Policy may be viewed on the Council website.

#### 2.4.23 Health Act 2006

2.4.24 The introduction of the Health Act 2006 which prohibited smoking in enclosed or substantially enclosed spaces in England has had a significant impact on alcohol-licensed premises and qualifying clubs. In many premises, customers wishing to smoke must do so in beer gardens, outdoor patio areas or in the street. This can result in noise, nuisance and anti-social behaviour for nearby residents, businesses and passers-by, especially late at night when background noise levels are low. The Authority will expect applicants and licence holders to have particular regard to the management of customers in the immediate vicinity of their premises to ensure that their behaviour does not cause offence or undermine the licensing objectives.

#### 2.4.25 Immigration Act

2.4.26 The commencement of the Immigration Act 2016 made it a requirement for licensing authorities to be satisfied that an applicant has the right to work in the UK. An application made by someone who is not entitled to work in the UK must be rejected. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work related to the carrying on of a licensable activity. A premises or personal licence issued in respect of an application made on or after 6 April 2017 will lapse if the holder's permission to live or work in the UK comes to an end.

#### 2.4.27 Coronavirus Act 2020

2.4.28 The Coronavirus Act 2020 and subsequent regulations were implemented in March 2020 as a response to the global pandemic. While in effect (at the time of writing this policy) these restrictions have far-reaching consequences on the operation of licensed premises and licensed events throughout the country. The Licensing Authority is committed to supporting licensed businesses at this difficult time to operate within the regulations, but takes a dim view of those licensed premises that do not comply and subsequently put their local



communities at risk. The Licensing Authority will work together with Environmental Health to promote the advice of Public Health England during any contact with licensed businesses.

#### 2.4.29 Promotion of Equality and Human Rights

2.4.30 This policy recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Actions of the Licensing Authority will be undertaken with due regard to equality obligations and where necessary, information will be published at least annually by the Council.

2.4.31 The Human Rights Act 1998 incorporated the European Convention on Human Rights and makes it unlawful for the Authority to act in a way that is incompatible with a convention right. The Authority will have regard to the Human Rights Act when exercising its licensing functions.

2.4.32 Conditions relating to disabled access will not be attached to licences, as this would duplicate existing statutory requirements. The Authority therefore takes this opportunity to remind holders of premises licences and club premises certificates of their duties under the Equality Act 2010.

### **2.5 Integrating Strategies and Avoiding Duplication**

2.5.1 By consulting widely prior to this policy statement being published, the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

2.5.2 The Licensing Authority will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination.

2.5.3 Where any protocols to be agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which lead to disorder and disturbance, the Licensing Authority will aim to inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.

2.5.4 The Licensing Authority's Licensing Committee will keep itself informed and consider wider issues which may need to be given due consideration when making licensing decisions. These may include:-

- needs of the local tourist economy
- cultural strategy for the area
- employment situation in the area and the need for new investment and employment where appropriate

2.5.5 The Licensing Authority recognises that it is a fundamental principle of the Act that the licensing function should not duplicate other statutory regulation. In

particular, the Authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. It is however recommended that appropriate planning permissions be obtained before an application for a premises licence or club premises certificate is made.

- 2.5.6 In order to avoid duplication with other statutory regimes as far as possible the Licensing Authority will not attach conditions on a licence unless they are considered appropriate for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation e.g. The Health and Safety. At Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.
- 2.5.7 Planning and Licensing
- 2.5.8 The planning and licensing systems involve consideration of different (albeit related) matters. Home Office guidance makes it clear that Licensing committees are not bound by decisions made by a planning committee, and vice versa. There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.
- 2.5.9 An alternative example would be if a planning condition relating to noise control was imposed at a premises and the owner subsequently applied for a premises licence. If a planning officer had evidence that there had been a breach of the planning condition it may be appropriate for said officer to make a representation in respect of the licence application. This is because it would relate to the Prevention of Public Nuisance licensing objective.

### **3. Promotion of the Licensing Objectives**

3.1 The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are: -

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

3.2 These objectives are the only matters to be taken into account in determining the application and any conditions attached must be appropriate to achieve the licensing objectives. Each objective is of equal importance. A licence will only be granted where the Licensing Authority is satisfied that these objectives have been met.

3.3 The Licensing Authority requires applicants to address the licensing objectives in their operating schedules having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location, and the needs of the local community. If there are no relevant representations then an application must be granted and subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.

3.4 Applicants are advised to contact the Licensing Team and other Responsible Authorities for advice on addressing the licensing objectives prior to submission of a premises licence or club premises certificate application

#### **3.5 Prevention of Crime and Disorder**

3.5.1 The Authority will endeavour to reduce crime and disorder throughout the Borough, in accordance with its statutory duty under section 17 of the Crime and Disorder Act 1998.

3.5.2 The Authority will expect applicants to take appropriate and proportionate measures to promote the crime and disorder objective. Examples of the sources of crime and disorder which the Authority would require applicants to take into consideration may include, but are not limited to:

- Underage drinking;
- Drunkenness on the premises
- Public drunkenness
- Drugs
- Violent behaviour
- Overcrowding/occupancy capacity;
- Anti-social behaviour

3.5.3 Such measures to be taken to promote the crime and disorder objective may

include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

#### 3.5.4 Drugs / Illegal Substances

3.5.5 The Licensing Authority recognises that drug use is not something that is relevant to all licensed premises. However, if relevant representations are made, special conditions may need to be imposed for certain types of venues in support of the prevention of the sale and consumption of drugs and to create a safer environment for those who may have taken them.

3.5.6 Examples of such measures may include, but are not limited to:

- Ensuring a highly visible staff presence throughout the premises.
- Regular checks by staff of ancillary areas such as lobbies, toilets, cloakrooms and corridors.
- Redesigning toilet facilities to remove horizontal surfaces, and niches and other areas where illicit items could be concealed.
- Ensuring that all staff, and door staff in particular, are trained to recognise visible signs that a person is under the influence of an illegal substance, and to refuse such persons entry to the premises.
- Operating robust 'search on entry' policies, with procedures in place to confiscate controlled drugs found during searches and hand these to police at the earliest opportunity.
- Carrying out testing on surfaces within the premises to detect the presence of traces of controlled drugs.
- Enforcing a zero tolerance policy to the use or supply of controlled drugs within the premises, ejecting or refusing entry to persons known to be linked to the use or supply of controlled drugs, and reporting to the police any person suspected of supplying controlled drugs.

3.5.7 In all cases where the Authority deems such conditions are appropriate for the promotion of the licensing objectives, advice will be taken from the Police.

#### 3.5.8 Door Supervisors

3.5.9 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises.

3.5.10 The Licensing Authority, having regard to advice from relevant Responsible Authorities, may consider that certain premises, because of their nature of operation, their capacity, their licensing hours and the licensable activities provided, may require stricter supervision for the purpose of promoting the reduction of crime and disorder and public nuisance. In such cases, if relevant representations are made, the Licensing Authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

- 3.5.11 The Authority recognises that door supervisors have an important function in terms of supervising customers not only inside premises but also outside. Door supervisors will therefore be expected to take a pro-active role in managing the behaviour of customers within the immediate vicinity of the premises in order to minimise disturbance and nuisance to nearby residents. Licence holders should ensure in particular that, at closing times, they have sufficient door supervisors to effectively control 'surges' of customers leaving premises.

### 3.6 **Public Safety**

- 3.6.1 The Act covers a wide range of premises that may require licensing. Each type of premises presents a mixture of safety risks, with many common to most premises and others unique to specific operations. It is essential that the premises are constructed or adapted and operated so as to safeguard occupants against these risks.

- 3.6.2 The Licensing Authority will have regard to the measures to be taken by applicants to ensure that the physical safety of any person visiting or working in licensed premises is not compromised. This should be demonstrated in an applicant's operating schedule. Factors that may be considered include, but are not limited to:

- The total occupancy capacity (staff, customers, others) of the premises
- Physical environment of the premises
- Customer profile
- Traffic management including access for emergency vehicles
- Crowd management
- Special arrangements for large events
- Use of special effects
- Lighting – emergency and general
- Temporary electrical installations

- 3.6.3 The Licensing Authority recognises that the Regulatory Reform (Fire Safety) Order 2005 replaced the previous fire safety legislation. Accordingly the Authority will not seek to impose the fire safety conditions on a licence/certificate where the Order applies.

- 3.6.4 Such measures to be taken to promote the public safety objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

- 3.6.5 It is recognised that special issues may arise in connection with outdoor and large scale events. Risk assessments must be used to assess whether any measures are necessary in the individual circumstances of any premises, see section 4.5 on large scale events and the ESAG.

### 3.7 **Prevention of Public Nuisance**

- 3.7.1 Public nuisance can include low level nuisance affecting a few people living

locally, as well as a major disturbance affecting the wider community. Nuisance is generally attributable to noise (from loud music or from rowdy customers), vibration, light pollution, noxious smells and litter. Applicants will be required to demonstrate that they have adequate measures in place in their applications to prevent nuisance and disturbance.

3.7.2 The Authority would expect applicants to have demonstrated in their operating schedule that public nuisance concerns have been identified, with suitable control measures implemented and maintained. Factors that may be considered include, but are not limited to:

- The location of the premises and proximity to residential and other noise sensitive premises.
- The hours of opening, including times when licensable activities may not be taking place, last admission time and 'wind down period'.
- Nature of activities provided.
- Supervision of customers including managing dispersal.
- Odour and light nuisance
- Litter and waste disposal
- Noise management plan (where appropriate)

3.7.3 The Licensing Authority recommends that applicants and licensees apply a higher standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises where:

- They are located in a residential or noise sensitive area
- They have or are proposing extended open hours

3.7.4 The Licensing Authority will normally expect premises selling hot food or hot drink that is taken off the premises for consumption, or the distribution of flyers or other promotional literature, to make adequate arrangements for the disposal of litter in the vicinity, which is discarded as a result.

3.7.5 Such measures to be taken to promote the public nuisance objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

3.7.6 The Licensing Act 2003 does not exempt licence holders from their statutory obligations under the Environmental Protection Act 1990. But in certain circumstances where existing legislation does not provide adequately for the prevention of public nuisance and representations have been received, consideration might be given to imposing conditions.

### 3.8 **Protection of Children from Harm**

3.8.1 The Authority recognises the great variety of premises for which licences may be sought. These include theatres, members' clubs, sports clubs, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls, schools and off-licences. The Authority will not restrict access by children to any particular type of premises unless it is considered appropriate to do so in order to protect

them from harm.

3.8.2 The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives for example in the context of film exhibitions or where adult entertainment is provided.

3.8.3 The Licensing Authority will expect applicants to demonstrate in their operating schedule that they have considered how they will ensure children using their premises will be protected from harm. Factors that may be considered include, but are not limited to:

- Limitation of access dependent on the nature of activities.
- Specific underage policy – e.g. Challenge 21 or Challenge 25 with staff fully trained on its use.
- Use of British Board of Film Classification for film exhibition.
- Limitation of access to areas used for gambling purposes.
- Child Sexual Exploitation

3.8.4 Such measures to be taken to promote the protection of children from harm objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

#### 3.8.5 Children and Licensed Premises

3.8.6 When deciding whether to limit the access of children, the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children would include premises:

- where entertainment of an adult or sexual nature is provided
- where there is a strong element of gambling taking place
- with a known association with drug taking or dealing
- where there have been convictions of current management for serving alcohol to those under 18
- where the supply of alcohol for consumption on the premises is exclusive or primary purpose of the services provided at the premises.
- where there are unsupervised areas (for example toilets, beer gardens, play zones).

3.8.7 One of the risks at licensed premises is that of sexual exploitation. To minimise the risk to children and young people, premises need to have preventative systems in place, [see section 3.8.25 on Safeguarding and Appendix F](#).

3.8.8 In such circumstances as listed in paragraph 3.8.6 above the Licensing Authority would expect for the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule, then if relevant representation are made the Licensing Authority will consider making such restrictions as are deemed appropriate to meet the licensing objectives.

- 3.8.9 Where relevant representations have been received, the Authority may impose conditions on licences for premises where children will be present at places of regulated entertainment so that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may also be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances.
- 3.8.10 The Licensing Authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. The options available for limiting access by children would include:-
- a limit on the hours when children may be present
  - a limitation or exclusion when certain activities are taking place
  - the requirement to be accompanied by an adult
  - access may be limited to parts of the premises but not the whole
  - an age limitation (for under 18s)
  - full exclusion of people under 18 from a premises when any licensable activities are taking place.
- 3.8.11 In relation to exhibition of films a mandatory condition will apply requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification or by the Licensing Authority itself.
- 3.8.12 In relation to theatrical entertainment it may be appropriate to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be appropriate where entertainment is provided specifically for children to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.
- 3.8.13 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.
- 3.8.14 The Licensing Authority recognises Children and Young People's Services of Devon County Council as being competent to advise on matters relating to the protection of children from harm.
- 3.8.15 Film classifications
- 3.8.16 Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the licensing authority. Where recommendations have been made by both bodies, and the licensing authority has notified licence-holders of this, the licensing authority's recommendation will take precedence.



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

including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.

- 3.8.23 When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, the authority will adhere to the BBFC's Classification Guidelines (<https://www.bbfc.co.uk/about-classification/classification-guidelines>), and where possible will issue a recommendation which is in accordance with one of the standard classification bands.
- 3.8.24 In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes. Due to the time required, a fee will be payable to the licensing authority to provide a film classification.
- 3.8.25 Safeguarding
- 3.8.26 Safeguarding children, young people and adults with care and support needs is everyone's responsibility and it is important that we all work together to ensure that we can all safely enjoy leisure, cultural and entertainment activities in our area.
- 3.8.27 Safeguarding not only includes physical or sexual harm, but psychological, emotional and financial harm and neglect. Where there are risks to children's wellbeing, every step should be taken to ensure their safety.
- 3.8.28 The risks to children and adults with care and support needs in licensed premises will depend on the type of establishment and the age of the children. If underage children are allowed to drink, they may become more vulnerable and could be at risk of abuse or exploitation.
- 3.8.29 Adults with care and support needs could be financially abused or subject to other forms of exploitation.
- 3.8.30 Adults working in licensed premises may also pose a risk to children or adults with care and support needs if they exploit their position by establishing relationships with them for inappropriate reasons.
- 3.8.31 The Licensing Authority is working together with other agencies to help tackle issues surrounding safeguarding, particularly child sexual exploitation and trafficking. Further information for operators and their employees on the types of issues to be aware of and good practice in relation to safeguarding is at Appendix F.

## **4. The Licensing Process**

### **4.1 Applications**

- 4.1.1 Application forms can be downloaded from our website or GOV.UK. Prior to submitting an application for a premises licence or club premises certificate (or variation to such authorisation), applicants are advised to contact the Licensing Team to discuss. This will usually aid the avoidance of errors when completing the application and will often help to avoid potential representations to the application.
- 4.1.2 Applications may be submitted electronically (apart from personal licences) or in hardcopy. Applications, notices or relevant representations shall be treated as having been “given” to the Authority in accordance with the principles of “deemed service” as set out in the Civil Procedure Rules.
- 4.1.3 Where an application or notice is sent via an electronic facility, the application will be deemed to have been ‘given’ when the applicant has submitted a valid application form and paid the prescribed fee and the application becomes accessible to the Licensing Authority by means of the facility. Where a representation is submitted electronically, it will be treated as having been ‘given’ at the point when it is submitted and becomes accessible to the Authority.
- 4.1.4 Once submitted, applications for premises licences and club premises certificates must be advertised in accordance with regulations. If an application has not been correctly advertised, the Licensing Authority may reject the application. The Licensing Authority will publish on its website a summary of all new, variation and review applications for premises licences and club premises certificates.
- 4.1.5 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 4.1.6 Applicants should consider the benefits of exceeding their statutory consultation requirements by proactively seeking the views of parties on the application and proposed licensable activities. This includes proactively liaising with local residents, local ward Councillors, businesses and responsible authorities.

### **4.2 Repeat applications**

- 4.2.1 The Licensing Authority will give particular attention to applications which have the effect of replicating to a large extent, the terms of a previous application(s) at the same premises / club which may have been refused or granted subject to conditions.

4.2.2 Where representations are made, the Licensing Committee will consider each application on its merits including:

- The applicants' justification or explanation as to the change of circumstances warranting a different decision by the Committee
- The extent to which the terms of the new application overcome previous concerns
- The extent to which the new application (including the operating schedule and any suggested conditions) will promote the Licensing objectives.

4.2.3 This policy does not apply to applications for:

- Changes to Designated Premises Supervisors
- Changes to the address of someone named on a licence
- Temporary Event Notices and is not designed to inhibit applications to make variations from 'time to time'.

#### 4.3 **Beer gardens and other outdoor spaces**

4.3.1 Applicants should consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is treated as taking place where the alcohol is appropriated to the contract. This means that where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer, this would be treated as an off-sale and any conditions that relate to off-sales would apply.

4.3.2 In such cases it will not be necessary to include the garden or other outdoor space on the plan as part of the area covered by the premises licence, assuming the licence authorises the sale of alcohol for consumption off the premises. However, it will be necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the premises licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).

4.3.3 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed application form requires the applicant to provide a description of where the place is and its proximity to the premises.

#### 4.4 **Mobile Vehicles, Remote, Internet and Other Delivery Sales**

4.4.1 The Licensing Authority shall have regard to sales of alcohol which are made remotely, by mobile methods, internet or by other delivery sales.

- 4.4.2 The expectation of the Authority is that conditions suggested by way of operating schedules for these types of activities are extremely robust in order to negate any perceived issues.
- 4.4.3 Persons who wish to run premises providing ‘alcohol delivery services’ should notify the Licensing Authority that they are operating such a service in their operating schedule. Premises with an existing licence permitting ‘off-sales’ who wish to include such a service as a new way of operating should consider applying to vary their licence to incorporate additional conditions to address the licensing objectives (this would usually be by way of a minor variation).
- 4.5 **Large Scale Public Events and the Event Safety Advisory Group (ESAG) Function**
- 4.5.1 Organisers of large scale public events such as festivals, outdoor music concerts, sporting events etc, are recommended to contact the Council to discuss licensing requirements as soon as practicable.
- 4.5.2 The Licensing Authority will expect organisers to work with them and other Responsible Authorities to ensure a co-ordinated approach to the organisation of these types of events. When planning a large scale event – whether this involves licensable activities or not – organisers are likely to be invited to attend an Event Safety Advisory Group (ESAG). The ESAG consists of representatives of relevant statutory authorities to provide advice and guidance to help ensure public health and safety. An ESAG meeting would generally be recommended for those organising large scale events, however, where there are perceived high risks to public safety, smaller events for up to 500 persons usually authorised by a temporary event notice may also require an ESAG meeting.
- 4.5.3 See Appendix E for a list of those authorities included in the ESAG meetings.
- 4.6 **Licensed Vessels**
- 4.6.1 There are additional Responsible Authorities stipulated in the Act which relate to the licensing of vessels (see Appendix C). The Licensing Authority will consider any representations made by these Responsible Authorities when considering applications for premises licences in respect of vessels. Where, in the opinion of the Licensing Authority, any of the four licensing objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.
- 4.7 **Fees**
- 4.7.1 **Part 2 of the Police Reform and Social Responsibility Act 2011** that came into force in October 2012, requires a Licensing Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.
- 4.7.2 It is the practice of this Authority to issue an invoice for the annual fee. Non-payment will then result in a suspension notice being served. Regulations state that the premises licence or club premises certificate holder will be given notice

of a suspension that is at least 2 working days before the suspension is to take place. This Authority allows 5 working days.

- 4.7.3 The Authority will not generally refund fees for licensing applications, particularly where the Authority has incurred costs in accepting and processing applications. Each case will be decided on merit.

#### **4.8 Late Night Levy**

- 4.8.1 At the time of approving this Policy, this Authority has taken no decision to implement the Late Night Levy, but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.
- 4.8.2 The Late Night Levy is a power conferred on Licensing Authorities by Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This provision came into force on 31<sup>st</sup> October 2012 and enables the Authority to charge a levy on premises in the Authority's area which are licensed to sell alcohol late at night as a means of raising a financial contribution towards the costs of policing the late-night economy. The levy applies to the whole of the Authority's area.
- 4.8.3 The levy will be payable by the holder of any premises licence or club premises certificate in the Authority's area which authorises the sale or supply of alcohol on any days during the 'late night supply period'. This is a period beginning at or after midnight and ending on or before 6am.
- 4.8.4 The decision to introduce the levy is for the Licensing Authority to make. Before making any such decision, the Licensing Authority must consult the Chief Officer of Police, the Police and Crime Commissioner and the holders of relevant late night licences or certificates. Local residents can use existing channels and forums to put forward views and call for the implementation of the levy in their area if they wish to do so.
- 4.8.5 The Licensing Authority must pay at least 70% of the net levy to the police. A Licensing Authority can deduct the costs it incurs in connection with the introduction, administration, collection, variation and enforcement of the levy prior to the levy revenue being apportioned between the police and Licensing Authority. The Licensing Authority has discretion to exempt certain premises – prescribed by regulations – from the levy and to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes
- 4.8.6 The Authority will review the need for a Late Night Levy at least every five years in conjunction with the review of this policy. The Authority will, however, consider the introduction of a Late Night Levy at any time if circumstances change and evidence supports this course of action.

#### **4.9 Early Morning Restriction Orders**

- 4.9.1 Early Morning Restriction Orders (EMROs) are a licensing power conferred on Licensing Authorities by s.119 of the Police Reform and Social Responsibility Act and came into force on 31<sup>st</sup> October 2012. This power enables a Licensing

Authority to prohibit the sale of alcohol for a specified time period between the hours of midnight and 6am in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

- 4.9.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which are not directly attributable to specific premises.
- 4.9.3 The decision to implement an EMRO must be evidence based. Evidence will be considered from partners including Responsible Authorities and local Community Safety Partnerships alongside the Authority's own evidence to determine whether an EMRO is appropriate for the promotion of the licensing objectives.
- 4.9.4 Measures that may be considered in advance of making an EMRO include:
- introducing a Cumulative Impact Policy
  - reviewing licences of specific problem premises
  - encouraging the creation of business-led practice schemes in the area
  - other mechanisms designed for controlling cumulative impact see 8.4
  - encouraging licence or certificate holders to make variations with respect of hours of licensable activities
- 4.9.5 The only exemptions relating to EMROs are premises which are authorised to sell alcohol between midnight and 6am on New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 4.9.6 At the time of approving this Policy, this Authority has taken no decision to introduce an EMRO, but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.
- 4.10 **Temporary Event Notices (TENs)**
- 4.10.1 The Licensing Act 2003 makes provision for regulating temporary events involving the supply of alcohol, the provision of regulated entertainment or the provision of late night refreshment at a premises which are not authorised by a premises licence or club premises certificates to authorise extensions to their permitted hours.
- 4.10.2 The system of temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the 'premises user') gives notice to the Licensing Authority of the event (a 'temporary event notice' or 'TEN').

- 4.10.3 A number of limitations are imposed on the use of TENs by the Act. The limitations apply to:
- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and 5 times in a calendar year for other people);
  - the number of times a TEN may be given for any particular premises (15 times in a calendar year);
  - the maximum duration of an event authorised by a TEN is 168 hours;
  - a maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
  - the maximum number of people attending at any one time (fewer than 500); and
  - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 4.10.4 A TEN can be used for any 'premises'. This could be a building, a room in a building, a vehicle, a marquee, an open field etc. A TEN may only be given by an individual (aged over 18) and not by an organisation or club or business.
- 4.10.5 There are two types of TEN; a standard TEN and a late TEN. A standard TEN must be given no later than ten working days before the event to which it relates; a late TEN must be given not before nine and no later than five working days before the event. (NB. Notice periods do not include the day the Notice is given to the Licensing Authority or the day of the event. If this minimum period of notice is not given, the Authority will reject the Notice and the licensable activities may not take place).
- 4.10.6 The Police and West Devon Borough Council's Environmental Health ('relevant persons') may object to a TEN. If the Authority receives an objection notice from a relevant person that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The Authority must consider any objection on the basis of the licensing objectives and decide whether the event should go ahead. Relevant persons may also intervene by agreeing a modification of the proposed arrangements directly with the person giving the TEN.
- 4.10.7 Where an objection is received, the Authority may impose conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. The Authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded.
- 4.10.8 When giving a TEN, the premises user should consider the promotion of the four licensing objectives. Organisers are strongly advised to contact relevant persons for advice at the earliest opportunity when planning events. Planning at an early stage may well minimise or avoid potential objections. Where amplified music is to be provided after 11pm, it is recommended that organisers provide a noise management plan with their TEN, as this is likely to be required by



Environmental Health to avoid a representation.

- 4.10.9 Where the TEN includes the supply of alcohol, the responsibility for the supply rests with the person giving the Notice (the 'premises user'). The premises user does not have to be on the premises for the entire duration of the event but will be liable for any offences committed.

4.11 **Personal licences**

- 4.11.1 The Police have the right to object to a person applying for a personal licence if that person has a relevant unspent conviction (at the time of application) or if they obtain a relevant conviction during the application period of their licence.
- 4.11.2 The Licensing Authority can revoke or suspend a licence in relation to convictions obtained after 6 April 2017.
- 4.11.3 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act are strongly encouraged to first discuss their intention to apply for a Licence with the Police and Licensing Authority before making an application.
- 4.11.4 There is no longer a requirement to renew a personal licence and the licence is portable, although changes of name and home address or updates to photos must be notified to the issuing Licensing Authority for a prescribed fee.

## **5. Decision Making**

### **5.1 Determining Applications**

- 5.1.1 In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits in the context of the four licensing objectives.
- 5.1.2 Where relevant representations are received in respect of an application, it will be considered at a licensing sub-committee meeting (or hearing). Any application for a review of a licence will be considered at such a hearing.
- 5.1.3 A hearing is not required where an application has been properly made and no Responsible Authority or other person has made a relevant representation. In these cases, the Licensing Authority must grant the application on the terms sought subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the Act.
- 5.1.4 A key consideration of the Licensing Authority when determining applications will be the adequacy of measures proposed by the applicant to promote the licensing objectives. The Licensing Authority will also have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems appropriate to promote the licensing objectives. The Authority may depart from the guidelines in this policy if it has justifiable and compelling reasons to do so. The Authority will give reasons for any such departure from policy.
- 5.1.5 The Authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, anti-social behaviour, littering, fouling, noise and the capacity of the infrastructure and police resources to cope with the movement of large numbers of people, particularly late at night and in the early morning.
- 5.1.6 In reaching a decision on whether or not to grant a licence, the Licensing Authority may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 5.1.7 When determining an application, the Authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant may be disregarded. The Authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the Authority will consider their application or representation but may attach less weight to it.
- 5.1.8 When determining an application, the Authority is making a judgement about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened, but to make an informed assessment of the risk of such things occurring if a licence is granted.

The Authority will then take such steps as it considers appropriate to prevent or minimise such risks.

- 5.1.9 The Authority will generally give its decision on an application at the end of a hearing and will give clear reasons for its decision. In all other cases, the authority will make its determination within five working days.
- 5.1.10 Applicants, Responsible Authorities and any person who has made a representation in respect of an application, may appeal the Licensing Authority's decision to the Magistrates' Court. An appeal must be made within 21 days of formal notification of the decision.

## 5.2 **Representations**

- 5.2.1 Representations must be made to the Licensing Authority in writing within the statutory consultation period. For this purpose, a representation made by email or a website submission will be deemed acceptable.
- 5.2.2 To be considered 'relevant', representations must relate to the likely effect of the grant of a licence on the promotion of one or more of the four licensing objectives. Both positive and negative representations will be considered. However, if a representation is deemed to be repetitious, frivolous or vexatious it may be disregarded.
- 5.2.3 Where relevant representations are received in respect of an application, it will be considered at a licensing sub-committee meeting (or hearing). Any application for a review of a licence will be considered at such a hearing. If no relevant representations are received, the application will be granted as applied for.
- 5.2.4 The Act provides that decisions and functions may be taken or carried out by Licensing Committees or delegated to Sub-Committees or in appropriate cases, to delegated officers supporting the Licensing Authority. The Licensing Committee will consist of between 10 and 15 elected members of the Council and will establish Sub-Committees consisting of 3 members of the Committee.

## 5.3 **Irrelevant, Vexatious and Frivolous Representations**

- 5.3.1 The Licensing Authority follows the guidance of the Secretary of State concerning the judgments of representation as being irrelevant, vexatious and frivolous. A representation would be 'irrelevant' if it does not relate to the application or to the promotion of the licensing objectives in the context of the application. In considering whether or not a representation is 'vexatious or frivolous' the Licensing Authority must determine whether any ordinary and reasonable person would consider the matter to be vexatious or frivolous.
- 5.3.2 Vexation may arise where, for example, there is a dispute between rival businesses.
- 5.3.3 Frivolous representations would be categorised by a lack of seriousness. Such

judgments should be objective and not based on political judgments and as such are best made by officers following enquiries as may be necessary. Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed and that representation will be disregarded.

#### **5.4 Anonymous Representations**

- 5.4.1 The Licensing Authority cannot accept anonymous representations. Full details of all representations must be made available to the applicant, including names and addresses. However, in exceptional circumstances, a person wishing to make a representation may be reluctant to do so because of fears of intimidation or harassment if their personal details are disclosed.
- 5.4.2 Where the authority considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation, the authority may consider alternative approaches. For example, the authority may advise the individual to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations, if appropriate and justified.
- 5.4.3 Alternatively, the authority may advise the individual to request their local councillor make a representation on their behalf. Where appropriate, the authority may decide to withhold some or all of the person's details from the applicant. The authority will only withhold such details where the circumstances justify such action.
- 5.4.4 Any petitions received will be treated as one representation from the person sending it in, supported by the other signatories. Petitions will not be treated as individual representations from everyone who has signed them. Petitions will only be accepted if on each sheet it clearly shows:
- the name and address of the application site
  - the licensable activities and their hours
  - reasons for the representation
  - which of the 4 Licensing objectives are relevant
- 5.4.5 Each petitioner must give their name and full address including post code. Failure to comply with any of the above requirements could lead to the petition being rejected.
- 5.4.6 All valid representations will form part of a committee report that will become a public document. It will be given to the applicant, his agent and any other party requesting a copy as well as the Licensing Sub-committee 10 working days prior to the hearing.
- 5.4.7 Whilst representations cannot be made to the Licensing Authority anonymously we will in all cases, remove an objector's name and house number and other personal details from individual representations in publicly published documents.

## **5.5 Licensing Hours**

- 5.5.1 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application, but the presumption will be to grant the hours requested unless there are relevant objections to those hours raised on the basis of the licensing objectives.
- 5.5.2 However, when issuing a licence with hours beyond midnight it is more likely that relevant representations will be made unless there are higher standards of control included within operating schedules in order to promote the licensing objectives, especially for premises which are situated near residential areas or in areas where anti-social disorder takes place.
- 5.5.3 The Licensing Authority will consider extensions of hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Entertainment providers will be encouraged to provide and promote a range of entertainment during their opening hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community. There is no presumption that applications for extended hours will take precedence over the human rights of local residents and businesses.
- 5.5.4 When relevant representations are made to the Licensing Authority, the discretion of the Licensing Authority will be engaged. The Authority strongly encourages the adoption of best practice. This includes the expectation, as an item of best practice that CCTV will be provided in those premises that wish to trade in the sale of alcohol beyond midnight, for the purpose of preventing crime and disorder and to promote public safety. Applicants for such licences should undertake a risk assessment with regard to CCTV and are expected to include CCTV in their operating schedule. Where they elect not to do so, they are strongly advised to provide information explaining that omission. For example, that the risk assessment has shown CCTV to be unnecessary.
- 5.5.5 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the Licensing Authority believe it appropriate to restrict the hours required due to the nature of the activities and the amenity of the area. If the Licensing Committee or a sub-committee believes that granting longer hours would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 5.5.6 It is important for applicants to note that there is no additional 'drinking up time' in the Act. Applicants must stipulate on their operating schedule the times during which they propose to sell or supply alcohol to customers and also stipulate the overall times the premises will be open. It therefore follows the applicant may wish to build into their operating schedule sufficient time to allow customers to

consume their alcohol and allow sufficient time for the customer to vacate the premises in a quiet and orderly manner and to achieve the licensing objectives. The Licensing Authority will generally require there to be a greater time gap between the terminal hour for the sale or supply of alcohol and the closing time, in premises used primarily for the consumption of alcohol on the premises such as nightclubs and pubs, than those premises where alcohol is very much ancillary to a substantial meal.

- 5.5.7 The Licensing Authority recognises that fixed trading hours within a designated area can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have been incidents of disorder and disturbance.
- 5.5.8 Because opening hours, (even those when no licensable activity is taking place) may themselves impact on the licensing objectives, the Authority will require any proposed change to opening hours for an existing licence to be authorised by way of a variation to the licence. In many cases this could be achieved by way of a minor variation application.
- 5.5.9 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance. This could be if an individual shop is known to be a focus of disorder and disturbance and relevant representations have been received. Another such reason may be a particularly early opening time, **or 24hrs opening**, where there are reasons to believe that the availability of alcohol at that hour could impact adversely on the licensing objectives.

## 5.6 **Licence Conditions**

- 5.6.1 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not generally be imposed where other regulatory regimes provide sufficient protection to the public (e.g. health and safety at work and fire safety legislation) unless considered appropriate. The Licensing Authority will only be able to consider imposing conditions if a relevant representation has been received. If no representations are received, the application must be granted in the terms sought and no additional conditions imposed.
- 5.6.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. There are three types of condition:

- mandatory conditions set out in the Act;
- conditions consistent with the operating schedule; and
- conditions imposed by the Licensing Authority

- 5.6.3 Conditions will relate to the premises being used for licensable activities and the impact of those activities in the vicinity. In this regard the Licensing Authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 5.6.4 Conditions attached to licences and the various other permissions issued under the Act will focus on matters falling within the control of individual licence holders. It is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. However, the Licensing Authority's discretion may be engaged if there is an evidential link between the disorderly behaviour and the licensed premises.
- 5.6.5 The Licensing Authority will avoid imposing disproportionate and over burdensome conditions on premises. The Authority may, however, impose conditions where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives.
- 5.6.6 Failure to comply with any condition attached to a licence or certificate is a criminal offence. It is therefore paramount that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:
- be appropriate, reasonable and proportionate
  - be enforceable
  - not duplicate other statutory requirements
  - be relevant to the particular type, location and character of the premises concerned
  - not be standardised
  - not replicate offences set out in the Act or in other legislation
  - be written in a prescriptive format
- 5.6.7 The conditions proposed by an applicant within their operating schedule should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which should be undertaken before making their application.
- 5.6.8 The Licensing Authority encourages applicants to consult with responsible authorities (such as Police and Environmental Health) when preparing their operating schedules to allow for liaison before representations (objections) prove necessary. The Licensing Authority's experience has shown that many of the conditions requested on applications have been vague, uncertain, imprecise and unenforceable. As an aid to applicants or their representatives, the Licensing Authority will provide a pool of conditions which applicants are invited to use when preparing their operating schedules.

- 5.6.9 In line with Home Office guidance, the Licensing Authority may amend the wording of proposed conditions where this is unclear, ambiguous or unenforceable, in consultation with the applicant. A condition will be interpreted in accordance with the applicant's intention.

## 5.7 Designated Premises Supervisors (DPS)

- 5.7.1 It is a requirement that all premises licensed for the sale of alcohol (other than certain Community Premises and Members' Clubs) must have a Designated Premises Supervisor (DPS) specified on the licence. This person must be a Personal Licence Holder. The Licensing Authority will normally expect the DPS to be given the day-to-day responsibility for running the premises by the premises licence holder and therefore be present on the premises on a regular basis in order to ensure the licensing objectives are being complied with.
- 5.7.2 Although not a legal requirement, the Licensing Authority recommends as good practice – in respect of premises licensed to sell or supply alcohol for consumption on the premises – that a Personal Licence Holder is on the premises at all times to make or authorise such sales or supplies. The Authority is keen to encourage the presence of properly trained staff on licensed premises. Applicants may wish to consider including this as a condition of licence, where appropriate, as a measure to promote the licensing objectives.
- 5.7.3 Should the DPS or other Personal Licence Holder be unavailable for a significant length of time, a responsible person should be authorised to oversee the sale of alcohol in their place. The Authority will expect the authorisation to be made in writing, kept securely on the premises and made available for inspection by an authorised person if requested.

## 5.8 Disapplication of Certain Mandatory Conditions for Community Premises

- 5.8.1 An amendment to the Licensing Act 2003 made in 2009 allows certain community premises which have or are applying for a premises licence that authorises alcohol sales to also apply to include the 'alternative licence condition' instead of the usual mandatory conditions in sections 19(2) and 19(3) of the Act (requirement for a DPS and for alcohol sales to be made or authorised by a Personal Licence Holder). Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. The Licensing Authority will expect such applicants to provide information about the committee structure, how events will be managed and a robust hiring agreement.
- 5.8.2 Where it is not clear whether premises are community premises, the Authority will approach the matter on a case by case basis. The main consideration will be how the premises are predominantly used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include those beneficial to the community as a whole, the premises will be likely to meet the definition.



## 5.9 Cumulative Impact

- 5.9.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. 'Cumulative impact assessments' were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018.
- 5.9.2 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 5.9.3 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 5.9.4 While the cumulative impact of licensed premises on the promotion of the licensing objectives can be taken into account, this should not be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 5.9.5 If the Licensing Authority receives relevant representations suggesting that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type and thereby creating exceptional problems of disorder and nuisance over and above the impact of the individual premises, the Authority may consider the issue of cumulative impact when determining an application. The onus is on any person or organisation making such representations to prove the assertion that the addition of the premises concerned would cause the cumulative impact claimed.
- 5.9.6 The Licensing Authority does not propose to operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, cinemas and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community and the licensing objectives.
- 5.9.7 There must be an evidential basis for the Authority to make the decision to

publish a CIA. The Community Safety Partnership, the Police and Environmental Health, may hold relevant information which would assist the Licensing Authority when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specified area to be covered by the CIA. Information which the Authority may be able to draw on includes:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- statistics on local anti-social behaviour offences;
- health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- environmental health complaints, particularly in relation to litter and noise;
- complaints recorded by the local authority, which may include complaints raised by
- local residents or residents' associations;
- residents' questionnaires;
- evidence from local and parish councillors; and
- evidence obtained through local consultation.

5.9.8 The Licensing Authority may consider this evidence, alongside its own evidence of the impact of licensable activities within its area and consider in particular the times at which licensable activities are carried on. Information which may form consideration of these issues includes:

- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- changes in terminal hours of premises;
- premises' capacity at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

5.9.8 Section 5A of the 2003 Act sets out what a Licensing Authority needs to do in order to publish a CIA and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act. The 2003 Act does not stipulate how the CIA should be used once published, because the requirements for determining applications for new licences or variations are the same in areas with a CIA as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any CIA published by a Licensing Authority must be summarised in its statement of licensing policy. Under section 5(6D) a Licensing Authority must also have regard to any CIA it has published when determining or revising its statement of licensing policy.

5.9.9 If a CIA is published the Licensing Authority must, within three years, consider whether it remains of the opinion set out in the assessment. In order to decide whether it remains of this opinion it must again consult the persons listed in section 5(3).

- 5.9.10 Having published a CIA a Licensing Authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the Licensing Authority will be considering whether it is appropriate to make a representation to its committee as a responsible authority in its own right. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the Licensing Authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.
- 5.9.11 The Licensing Authority recognises that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour that occurs away from licensed premises. These include:
- planning control
  - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as Best Bar None, Pubwatch or Business Improvement District
  - Community Protection Notices
  - the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
  - the confiscation of alcohol from adults and children in designated areas
  - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
  - prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
  - Raising a contribution to policing the late night economy through the Late Night Levy
  - Early Morning Alcohol Restriction Orders
- 5.9.12 The absence of a CIA does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. However, in each case it would be incumbent on the person 114 | Revised Guidance issued under section 182 of the Licensing Act 2003 making the representation to provide relevant evidence of cumulative impact.
- 5.9.13 Additional information on Cumulative Impact can be found in s.182 guidance. This Authority has not published a CIA at the time of writing this policy

## 6. Enforcement

### 6.1 Enforcement Activity and Policy

- 6.1.1 The Licensing Authority has established protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.
- 6.1.2 The Licensing Authority will continue to liaise with the Police Licensing Section and the Devon & Somerset Fire & Rescue Service, as well as other responsible authorities, to inspect licensed premises. This joint partnership approach is intended to maximise the potential for controlling crime, disorder and hazards at premises and to ensure compliance with relevant conditions as appropriate.
- 6.1.3 In general, action will only be taken in accordance with agreed enforcement principles and in line with the Authority's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained. *Inspection and enforcement will be risk-based with a lighter touch being adopted for premises which are well managed and where there is little or no evidence of crime and disorder, public nuisance or other problems.*
- 6.1.4 *A graduated approach will be adopted starting with a verbal or written warning for infringements of the law or failure to comply with licence conditions. Failure to respond to such warnings will result in stronger enforcement measures being taken, which could lead to a prosecution or an application being made for a review of the licence or club premises certificate (see 6.2). (Please refer to section 4.7 with regard to the suspension of a premises licence or club premises certificate for non-payment of an annual maintenance fee).*

### 6.2 Review

- 6.2.1 A Responsible Authority or any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising at the premises which may have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Sub-Committee at a hearing.
- 6.2.2 Any application for a review should be treated seriously. Responsible authorities will aim to give licence/certificate holders early warning of any concerns identified at a premises, and talk to the licence/certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. Similarly those seeking a review which are not a responsible authority are encouraged to take initial steps such as:
- Asking the Licensing Authority to talk to the licence/certificate holder on their behalf
  - Asking their local MP or Councillor to speak to the licence/certificate holder on their behalf

- Talking to the relevant responsible authority to establish whether there is other action that can be taken to resolve the problem

- 6.2.3 The review process is not intended as a means of challenging the grant of a licence following the failure of representations to persuade the Licensing Authority on an earlier occasion. No more than one review from a person other than a Responsible Authority will be entertained in relation to a particular premises within a period of twelve months on similar grounds, save in compelling circumstances (e.g. where new problems have arisen) or where it arises following a closure order made under s.160 or s.161 of the Act.
- 6.2.4 When considering a review of a premises licence or club premises certificate, the Authority will expect applicants for the review to provide evidence of previous infringements of licensing regulations, failure to comply with the licence conditions and/or failure to promote the licensing objectives.
- 6.2.5 Following a review, the Authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available are:
- to modify the conditions of the premises licence
  - to exclude a licensable activity from the scope of the licence);
  - to remove the designated premises supervisor
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.
  - to take no action
- 6.2.6 In cases where the crime and disorder objective has been undermined or where it can be demonstrated that a premises has a history of persistent offending, suspension or revocation of a licence, even in the first instance, may be seriously considered as a form of deterrence.
- 6.2.7 In cases of serious crime and disorder at premises, the Police may apply for a summary review. On receipt of such an application, the authority has 48 hours to determine whether any interim steps are required.
- 6.2.8 Any person aggrieved by a decision of the Authority has the right of appeal to the Magistrates' Court. An appeal must be made within 21 days of the Licensing Authority's decision.

## **7. Further Information**

- 7.1 Contact details of the Authority and Responsible Authorities are given in Appendix C.
- 7.2 Further information and guidance on the Act can be viewed on the Authority's website. Application forms can be downloaded from the site or electronic applications submitted online.
- 7.3 Further information on alcohol and entertainment licensing is available on the Home Office website at [www.gov.uk/government/organisations/home-office](http://www.gov.uk/government/organisations/home-office) and on the website for the Department of Culture, Media and Sport at [www.gov.uk/government/organisations/department-for-culture-media-sport](http://www.gov.uk/government/organisations/department-for-culture-media-sport).
- 7.4 **Equality and Human Rights Issues**
  - 7.4.1 In developing this policy, the Authority recognises its responsibilities under the Equality Act 2010, to consider the need to eliminate unlawful discrimination and to promote equal opportunities. The Policy therefore supports and is supported by the Council's Equality Scheme and any equality issues will be addressed in an Equality Impact Needs Assessment.
  - 7.4.2 The Human Rights Act 1998 incorporated the European Convention on Human Rights and makes it unlawful for the Authority to act in a way that is incompatible with a convention right. The Authority will have regard to the Human Rights Act when exercising its licensing functions.
  - 7.4.3 Conditions relating to disabled access will not be attached to licences, as this would duplicate existing statutory requirements. The Authority therefore takes this opportunity to remind holders of premises licences and club premises certificates of their duties under the Equality Act 2010

## Appendix A – Delegation of Functions

Matters to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representations made
Application for provisional statement		If a relevant representation made	If no relevant representations made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representations made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Suspension of premises licence/club premises certificate for non-payment of annual fee			All cases
Review of Statement of Licensing Policy	All cases		
Implementation of Late Night Levy	All cases		
Creation of an Early Morning Restriction Order	All cases		

## Appendix B – Glossary of Terms

### Club Premises Certificate

Authorises the use of premises by a qualifying club for one or more licensable activity

### Designated Premises Supervisor

Means the person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).

### Hampton Principles : from enforcement to compliance

What it will deliver – full implementation of the Hampton principles will result in more proportionate and risk-based compliance and enforcement activity, meaning fewer forms, no inspection without a reason, better advice for businesses, and swift treatment of non-compliance with meaningful sanctions.

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmspeak/1069/106911.htm>

### Late Night Refreshment

- The provision, between 11 pm and 5 am, of hot food or hot drink, for a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am

or

- at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Hot Food or Hot Drink - food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:

- (i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,

or

- (ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

### Licensable Activities and Qualifying Club Activities

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the Club for consumption on the premises where the supply takes place
- The sale by retail of alcohol by or on behalf of a club to a guest of a member of the Club for consumption on the premises where the sale takes place
- The provision of regulated entertainment where that provision is by or on behalf of a Club for members of the club or members of the club and their guests



**Licensing Authority**

West Devon Borough Council acting as the Licensing Authority,

**Operating Schedule**

Means a document containing a statement including the following matters:-

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as The Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken in sufficient details so as to enable the Responsible Authority to determine whether or not they are adequate to promote the Licensing Objectives

**Personal Licence**

Authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence

**Premises Licence**

Authorises the premises to be used for one or more licensable activity

**Regulated Entertainment -**

- (a) A performance of a play
- (b) An exhibition of a film
- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

**Residential Area**

An area whose character is residential at the material time of day. Where there is doubt, the Licensing Authority will consider the number of residential units in the area and the proportion of such units to units used for other purposes.

**Responsible Authority -**

The public bodies that must be fully notified of applications and that are entitled to make relevant representations to the Licensing Authority in relation to the grant, variation, minor variation or review of a premises licence (See Appendix C).

**Temporary Event Notice**

A Notice authorising a permitted temporary activity involving one or more licensable activities subject to certain conditions and limitations (see section 15)

## Appendix C – Responsible Authorities

The list of Responsible Authorities and their respective contact details may change, where additional authorities are designated by regulations from the Secretary of State, or where existing contacts change their details.

An up-to-date contact list of Responsible Authorities can be obtained by accessing the Council webpage or by emailing [licensing@swdevon.gov.uk](mailto:licensing@swdevon.gov.uk).

### List of designated responsible authorities under Licensing Act 2003:

#### Licensing Authority

Licensing, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ  
Tel: 01822 813600  
Email: [licensing@swdevon.gov.uk](mailto:licensing@swdevon.gov.uk)

#### Devon and Cornwall Police

Licensing Department, Devon and Cornwall Constabulary, Launceston Police Station, Moorland Road, Launceston, PL15 7HY  
Tel: 01566 770500  
Email: [licensing.team@devonandcornwall.pnn.police.uk](mailto:licensing.team@devonandcornwall.pnn.police.uk)

#### Devon and Somerset Fire and Rescue Service

##### Depending on the location of the premises:

Devon and Somerset Fire and Rescue Service, Glen Road, Plympton, Plymouth, PL7 2XT  
Tel: 01752 333600  
Email: [plymouthfs@dsfire.gov.uk](mailto:plymouthfs@dsfire.gov.uk)

Devon and Somerset Fire and Rescue Service, Exeter Fire Station, Danes Castlie, Howell Road, Exeter, EX4 4LP  
Tel: 01392 872200  
Email: [exeterfs@dsfire.gov.uk](mailto:exeterfs@dsfire.gov.uk)

#### Health and Safety

Environmental Health - Health and Safety, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ  
Tel: 01822 813600  
Email: [environmental.health@swdevon.gov.uk](mailto:environmental.health@swdevon.gov.uk)

If the premises is a factory, farm, school or college, fairground, hospital, nursing home or government premises, please send a copy of the application to the Health & Safety Executive:

Health and Safety Executive, 1<sup>st</sup> Floor, Cobourg House, 32 Mayflower Street, Plymouth, PL1 1QX  
Tel: 0300 003 1747  
Website: [www.hse.gov.uk](http://www.hse.gov.uk)

#### Environmental Health

Environmental Health – Pollution Control, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ  
Tel: 01822 813600  
Email: [environmental.health@swdevon.gov.uk](mailto:environmental.health@swdevon.gov.uk)

## **Planning**

### **Depending on location of premises:**

Development Management West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ

Tel: 01822 813600

Email: [development.management@swdevon.gov.uk](mailto:development.management@swdevon.gov.uk)

For areas within Dartmoor National Park:

Dartmoor National Park Authority (Planning), Parke, Bovey Tracey, Newton Abbot, TQ13 9JQ

Tel: 01626 832093

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

## **Child Protection**

Devon Safeguarding Children Board, CP Checks, MASH, PO Box 723, Exeter, EX1 9QS

Tel: 01392 383000

Email: [cpchecks@devon.gcsx.gov.uk](mailto:cpchecks@devon.gcsx.gov.uk)

## **Health Authority**

Public Health Devon, Devon County Council, County Hall, Exeter, EX2 4QD

Tel: 0845 002 3456

Email: [alcohollicensing-mailbox@devon.gov.uk](mailto:alcohollicensing-mailbox@devon.gov.uk)

## **Weights and Measures**

Devon Trading Standards Service, County Hall, Topsham Road, Exeter, EX2 4QD

Tel: 01392 381381

Email: [tsslicensingact2003@devon.gov.uk](mailto:tsslicensingact2003@devon.gov.uk)

## **Home Office Immigration Enforcement**

Lunar House, 40 Wellesley Road, Croydon, CR9 2BY

Email: [alcohol@homeoffice.gsi.gov.uk](mailto:alcohol@homeoffice.gsi.gov.uk)

In relation to vessels, responsible authorities also include navigation authorities (within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,

### **Depending on the location of the boat where usually moored or berthed:**

#### **Maritime & Coastguard Agency (Boats only)**

Plymouth Marine Office, Suite 5, Endeavour House, Oceansgate. Vivid Approach, Plymouth, PL1 4RW

Tel: 020 390 85245

Email: [plymouthmo@mcga.gov.uk](mailto:plymouthmo@mcga.gov.uk)

#### **Environment Agency – South West (Boats only)**

Manly House, Kestrel Way, Sowton Industrial Estate, Exeter, EX2 7LQ

Tel: 01392 444000

Email: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

## **Appendix D – List of Consultees**

List of those bodies and persons consulted upon prior to the adoption of this policy:

All premises licence holders  
All members' clubs holding a club premises certificate  
All responsible authorities – see Appendix C  
Chief of Devon and Cornwall Police  
Borough Councillors  
Town and Parish Councils  
Local libraries  
British Beer and Pub Association  
Okehampton LVA Group  
Tavistock and District Chamber of Commerce  
Okehampton Chamber of Trade  
H M Principal Inspector of Health & Safety  
Campaign for Real Ale Limited  
ISAN – Developing Outdoor Arts  
Popleston Allen Licensing Solicitors  
Association of Convenience Stores  
Association of Licensed Multiple Retailers  
British Board of Film Classification  
British Institute of Innkeepers  
British Retail Consortium  
UK Cinema Association  
Department for Culture, Media and Sport  
Federation of Licensed Victuallers Association  
National Pubwatch  
The Portman Group  
Arts Development: UK

## **Appendix E – Event Safety Advisory Group**

**Authorities that attend the Event Safety Advisory Group meetings include:**

- Dartmoor National Park (if applicable)
- Devon and Cornwall Police
- Devon and Somerset Fire and Rescue Service
- Devon County Council Highways
- Environmental Health
- Health and Safety
- HM Coastguard (if applicable)
- Licensing
- Parish and Town Councils
- South Devon and Dartmoor Community Safety Partnership
- West Devon Borough Council Assets
- South West Ambulance Service Trust

## **Appendix F – Safeguarding Children, Young People and Adults with Care and Support Needs**

West Devon Borough Council is committed to protecting children from harm through the sharing of intelligence and by working together with other key agencies. Safeguarding of children and vulnerable persons is everyone's business and responsibility and it is therefore vital that all areas of society share relevant information with the Police and the local Safeguarding Boards.

Premises licence holders and their employees may become aware of or come into contact with children, young people and adults with care and support needs, or people who are victims of modern slavery or human trafficking. This may be in hotels, bars, restaurants, late night takeaways, off licences or other licensed premises. This means that licence holders and their employees are in an ideal position to help protect young and vulnerable people.

### **Child Sexual Exploitation**

Child sexual exploitation (CSE) is a crime that can affect any child, anytime, anywhere – regardless of their social or ethnic background. CSE involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

CSE involves perpetrators grooming youngsters and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes.

Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.

Set out below is a list of considerations for premises licence holders and their employees to remember when they see young and vulnerable people in their licensed premises:

- Do any of your customers appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are children/young people or vulnerable adults being brought regularly to your premises by older people? If so, ask yourself why?

If the answers to any of the questions above gives you even the slightest cause for concern, these should be reported as soon as possible.

If you are concerned about a child or young person in Devon and want to speak to someone contact the Devon Multi-Agency Safeguarding Hub (MASH) on **0345 155 1071** or email [mashsecure@devon.gcsx.gov.uk](mailto:mashsecure@devon.gcsx.gov.uk) and give as much information as you can.

**If a child is at immediate risk from harm contact Devon and Cornwall Police on 999.**

Further information and links to relevant agencies can be found on our website: <https://southhams.gov.uk/article/3396/Safeguarding-children-and-vulnerable-adults>

## **Safeguarding Vulnerable Adults**

An adult with care and support needs is someone who is in need of community care services due to disability, age or illness. They may be unable to take care of or protect themselves against significant harm or exploitation.

If an adult with care and support needs is experiencing or is at risk of abuse or neglect and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect, you may need to take urgent action to protect the adult. Your first priority is with the adult, to make them safe (including reporting to the police if immediate action is required). Ideally, support the adult to take action to stop the abuse. If they need to raise a concern with the Local Authority to help them stop the abuse support that person to contact the Devon Adult Safeguarding Board: <http://new.devon.gov.uk/devonsafeguardingadultsboard/#>

In particular, licence holders and staff who work in licensed premises should consider the following when coming into contact with adults with care and support needs:

- Has your customer got any physical signs of abuse or neglect?
- Are they a regular customer? Do you see changes in their behaviour or mood?
- A customer tells you they are having difficulties with someone else.
- A customer tells you they have a worry about someone.
- A customer tells you they have hurt a person.
- A customer tells you something they have seen or heard.
- You see worrying behaviour towards someone.

If you have even the slightest cause for concern you may need to take urgent action to protect the adult. If you see, hear or suspect that an adult may be at risk of abuse or neglect, you must tell someone about it. If they are in immediate danger contact the police on 999. Otherwise contact Care Direct on 0345 155 1007 or email [customerservicecentrecaredirectteam-mailbox@devon.gov.uk](mailto:customerservicecentrecaredirectteam-mailbox@devon.gov.uk) .

Further information and links to relevant agencies can be found on our website: <https://southhams.gov.uk/article/3396/Safeguarding-children-and-vulnerable-adults>

## Modern Slavery and human trafficking

Modern slavery is a crime and a violation of fundamental human rights and can take various forms such as slavery, servitude, forced and compulsory labour and human trafficking.

In particular, licence holders and staff who work in licensed premises should ask themselves the following questions when coming into contact with children, young people or adults with care and support needs:

- Is the victim in possession of a passport, identification or travel documents? Are these documents in possession of someone else?
- Does the victim act as if they were instructed or coached by someone else? Do they allow others to speak for them when spoken to directly?
- Was the victim recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators, whom they must pay back through providing services?
- Does the victim receive little or no payment for their work? Is someone else in control of their earnings?
- Was the victim forced to perform sexual acts?
- Does the victim have freedom of movement?
- Is the victim under the impression they are bonded by debt or in a situation of dependence?
- Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?
- Can the victim freely contact friends or family? Do they have limited social interaction or contact with people outside their immediate environment?

Report anything suspicious you spot to the police or other authorities – it could be at licensed premises where you work, where workers seem reticent to engage, not appropriately dressed for their work or are increasingly ill-fed and unkempt. If there is an immediate danger to the suspected victim or if you think that the suspected victim is under 18yrs, inform the police and call 999 as a matter of urgency.

To refer a victim of trafficking or to receive advice, please call the Modern Slavery 24hr confidential referral helpline on 0800 0121700 anytime of the day or night. Further information can be found at <https://www.modernslaveryhelpline.org>.

Further information and links to relevant agencies can be found on our website: <https://southhams.gov.uk/article/3396/Safeguarding-children-and-vulnerable-adults>

## Safeguarding Co-ordinator

It is good practice to assign at least one member of staff or management to take a lead on issues relating to safeguarding children and vulnerable people (a 'Safeguarding Co-ordinator'). This role must be delegated to a suitable member of staff when the lead person is on holiday, or otherwise absent from the premises. This safeguarding measure should be included in the operating policy, to evidence a commitment to the core objectives of the legislation, (it is not necessary however to include the name of the Safeguarding Co-ordinator in the operating policy).



The designation of a safeguarding co-ordinator demonstrates due diligence and can be an advantage at premises where there is a high turnover of staff, to ensure consistent standards operate and provide an induction to new staff. The assignment of a Safeguarding Co-ordinator may benefit the business during busy times, ensuring that the premises management is able to prioritise its safeguarding responsibilities and therefore meet the licensing objective of 'protection of children from harm', under the Licensing Act 2003.

The Safeguarding Co-ordinator must be fit and proper to work in proximity to children and vulnerable people. Staff assigned to the role of Safeguarding Co-ordinator must be adequately checked (for example via the Disclosure and Barring Service) if they are to have 1:1 contact with children or a responsibility to supervise children and safe recruitment procedures should be followed.

The following points give an example of the type of duties that the Safeguarding Co-ordinator should undertake (this list is not exhaustive).

- Ensure that policy is enforced in relation to children and vulnerable people.
- Monitor the effectiveness of existing safeguarding measures and review policy when necessary.
- Have a basic awareness of safeguarding issues relating to children and vulnerable adults, including the types of harm and potential risks at the premises.
- To train other staff to be aware of potential risks to children and vulnerable people and be able to advise staff what to do if safeguarding issues arise.