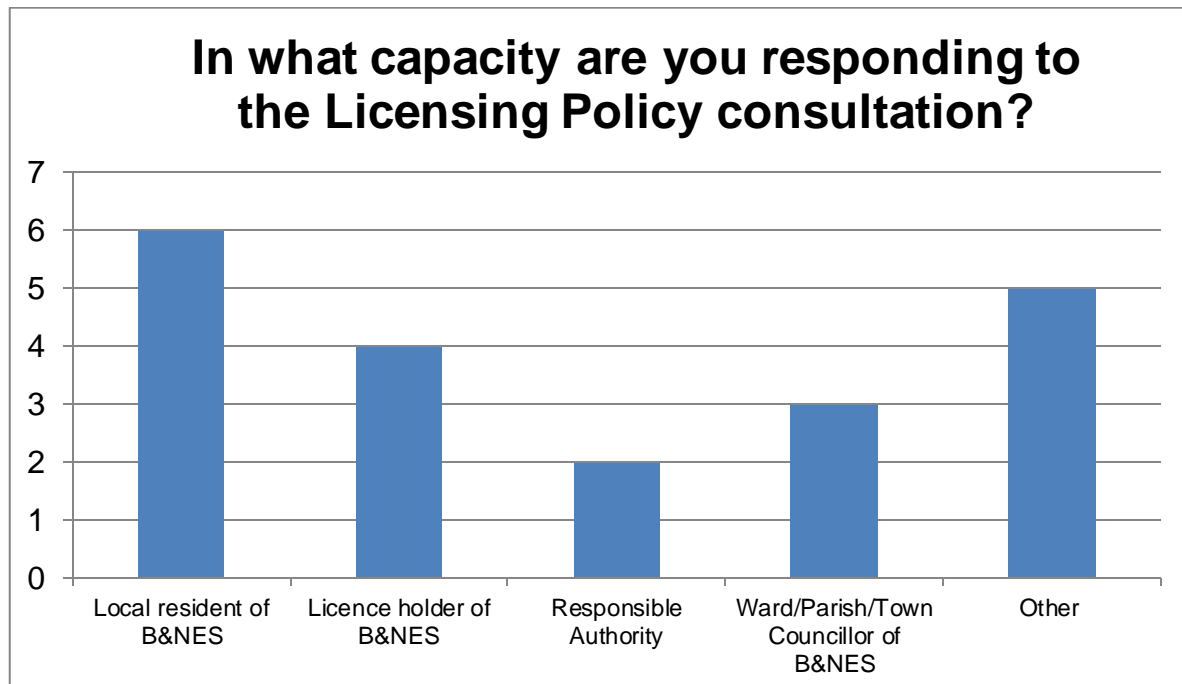


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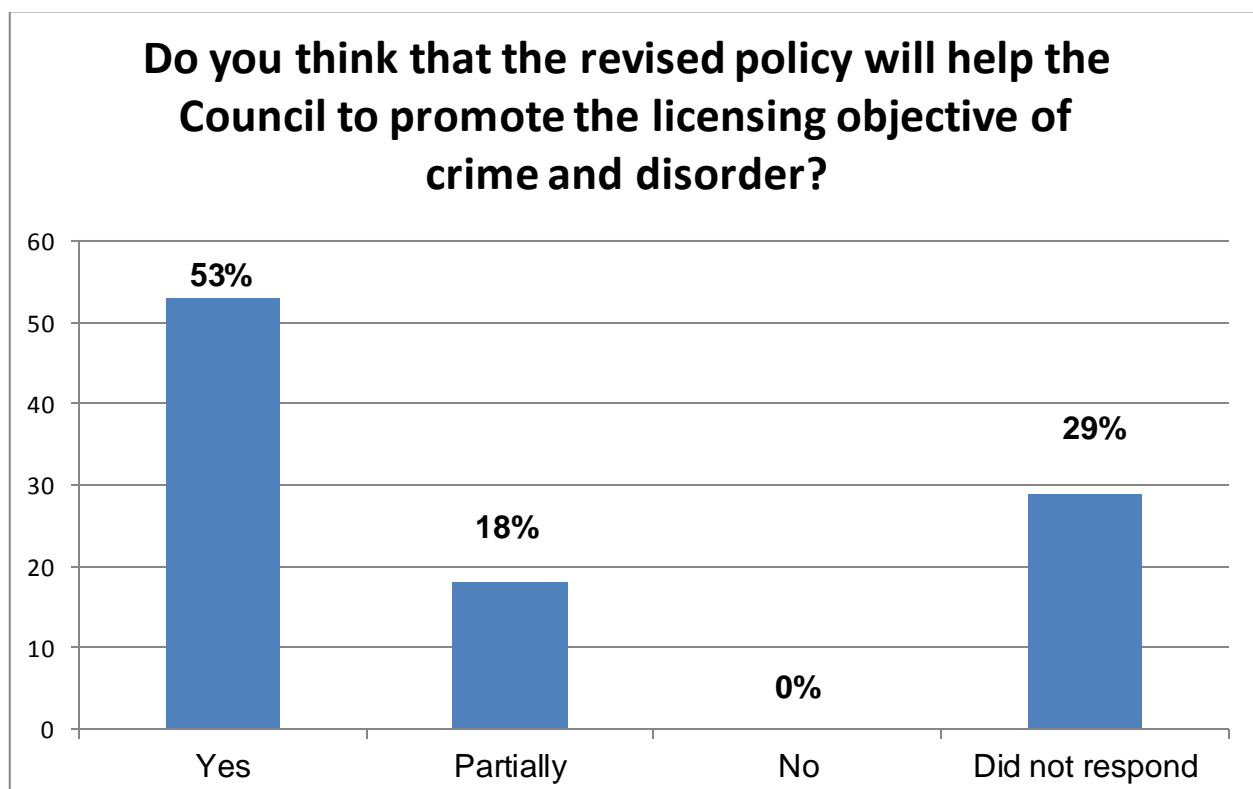
Statement of Licensing Policy- 2014 Consultation Responses

Question 1: Respondent (by type)



(The sum of the respondents exceeds 17 as some respondents ticked 2 options e.g. local resident and licence holder. The respondents in the 'other' category included the Bath Improvement District, the Wine and Spirit Trust and Residents Associations).

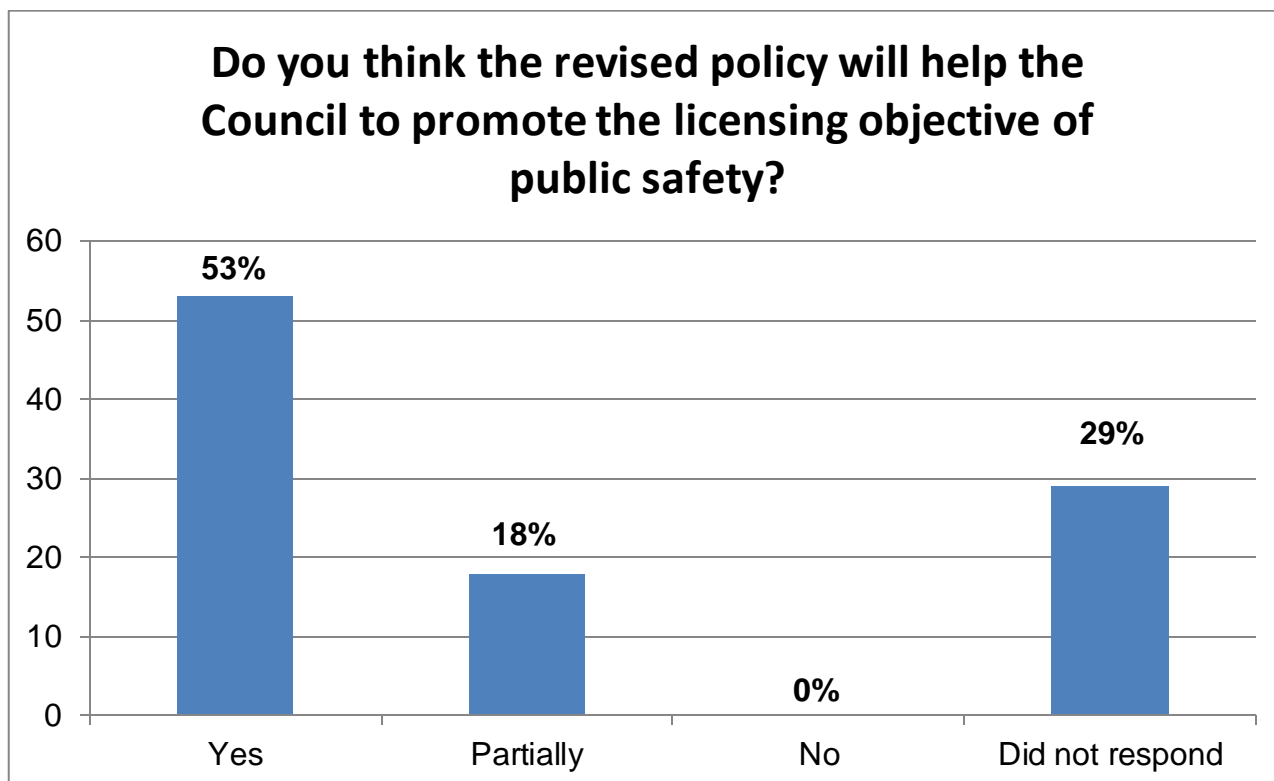
Question 2: Promotion of licensing objectives (crime and disorder):



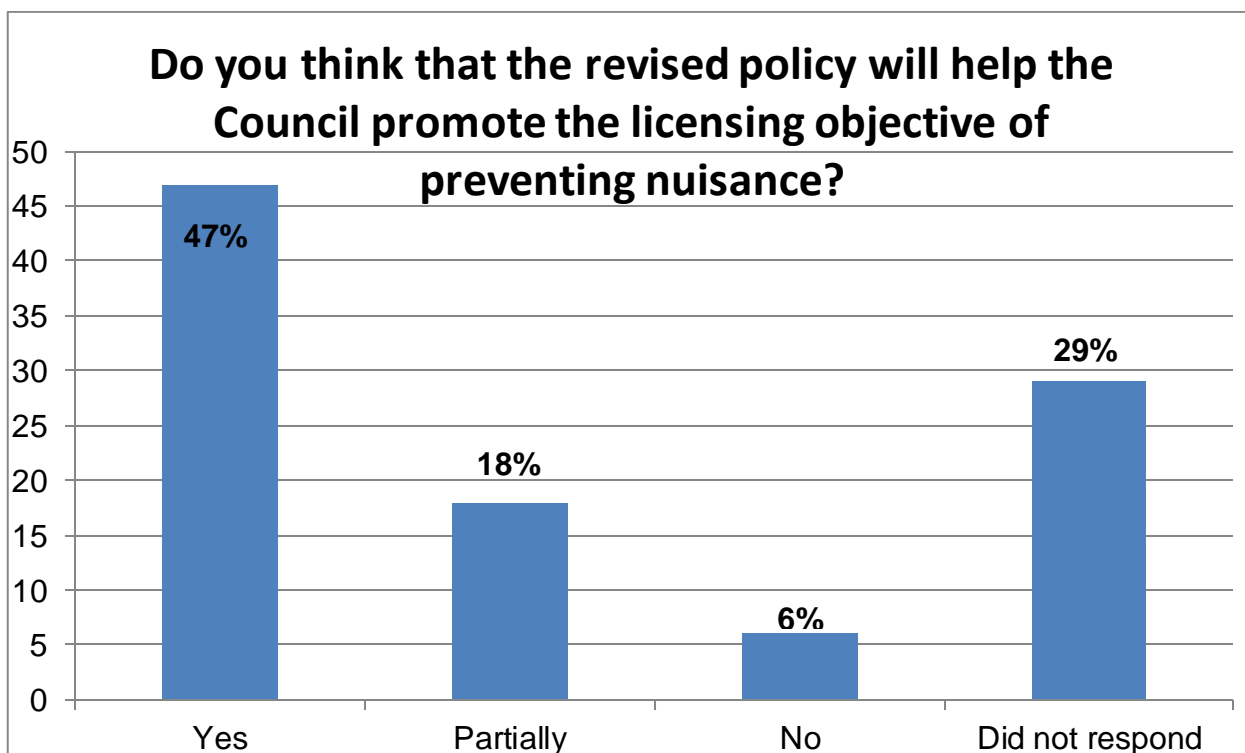
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Question 3: Promotion of licensing objectives (public safety):



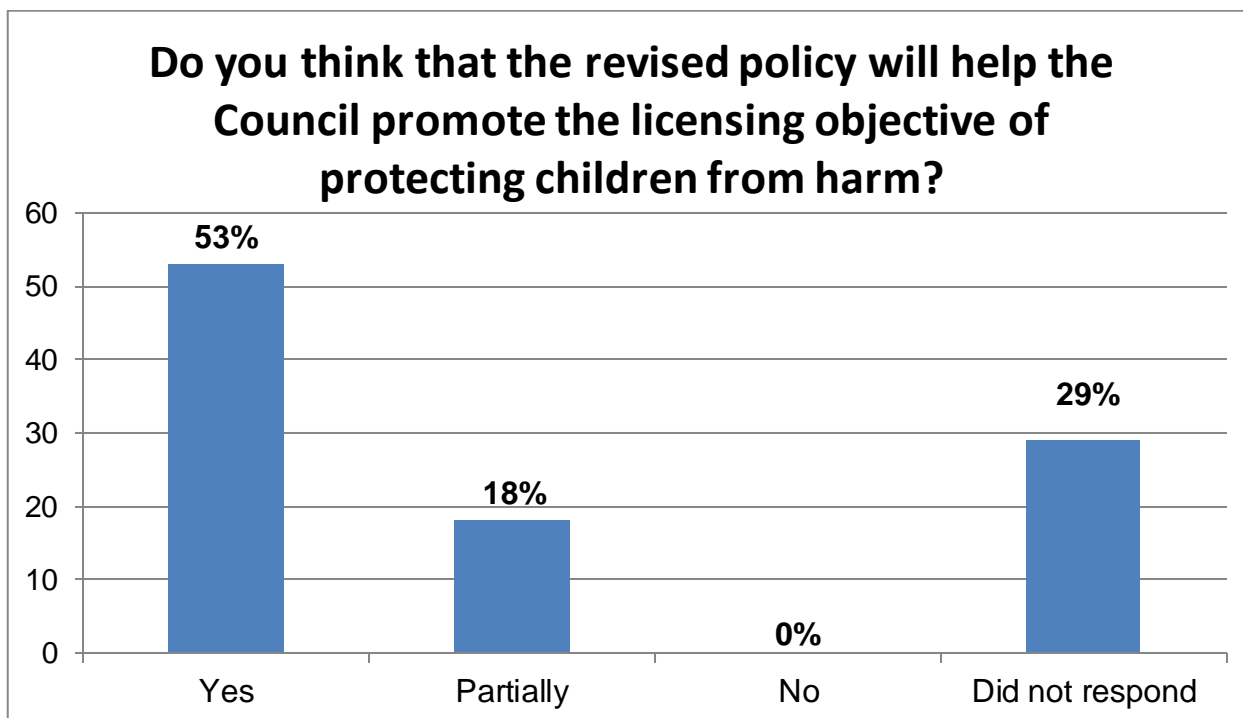
Question 4: Promotion of licensing objectives (preventing public nuisance):



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Question 5: Promotion of licensing objectives (protection of children from harm):



Question 6: Do you have any suggestions on how we could improve the section on the licensing objectives?

The following responses were received; where necessary, the response from the Licensing Team follows in blue:

“Don’t hand out licences -analyse before more diligently”

Licences are issued according to a statutory process and can only be refused when a relevant representation is received and only then by a Licensing Sub Committee.

“Maybe a) levies should be raised on any extension to 'normal' licensing hours. And b) more 'pro-action' by authorities to clamp down on any breaches”

The Licensing Act 2003 moved away from ‘normal’ licensing hours, allowing terminal hours to be staggered to minimise the effects of all premises closing at the same time. There is no mechanism to raise levies on extensions to what would be termed ‘normal licensing hours’.

Every complaint received by the Licensing team is investigated; there is also successful multi-disciplinary Licensing Enforcement Group comprising of representatives from the Police, Fire Service and other Council teams which carry out intelligence-led out of hour’s visits to licensed premises. This group typically completes one operation per month and any actions arising from visits are agreed jointly by the Licensing Enforcement Group.

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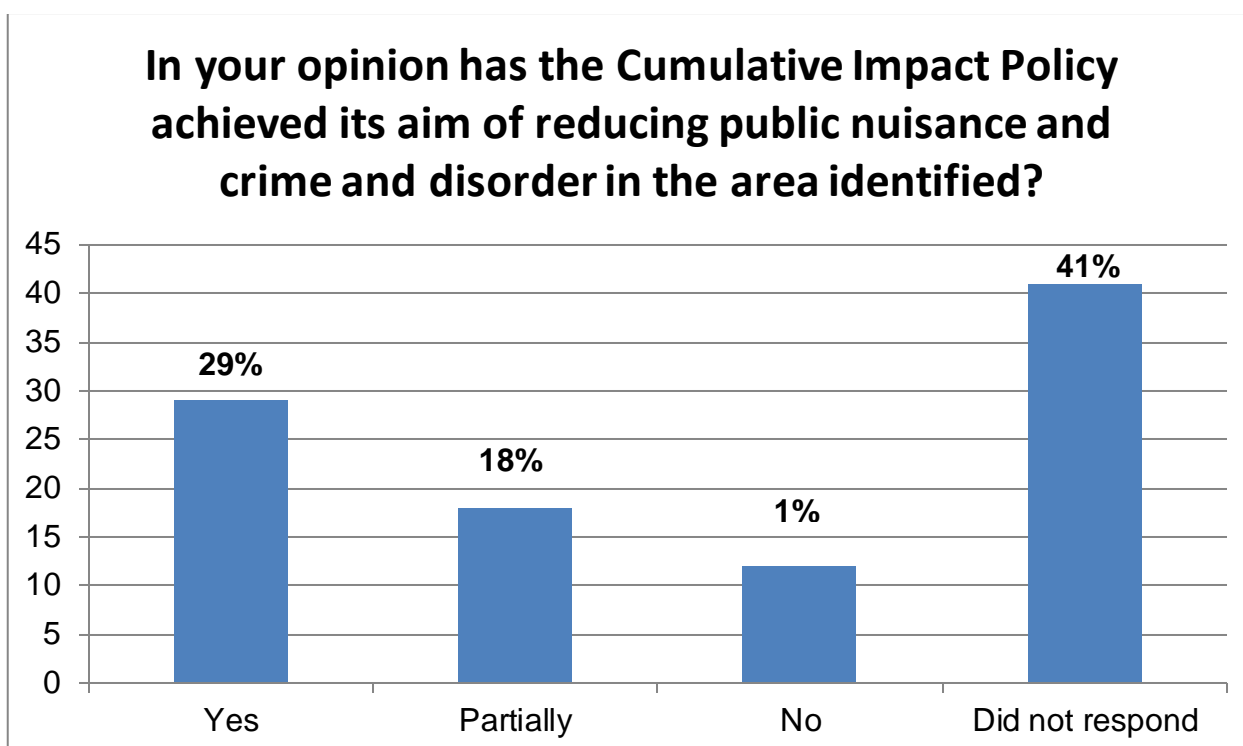
“Section 3.9 could be strengthened to emphasis the role the B&NES Licensing Policy plays in supporting the public health agenda in B&NES, in particular the aim of helping people to stay healthy through reducing levels of alcohol misuse in the population. It also contributes to the B&NES Alcohol Harm Reduction Strategy aim of preventing the harm arising to individuals, families, and society from excessive drinking and to promote a culture where drinking is seen as an adjunct to having an enjoyable and sociable time and not as an end in itself”.

This paragraph will be amended to take these comments into account.

“Para 3.6 concerning the Licensing Authority being added to the list of Responsible Authorities. The wording gives a negative view of what the licensing authority can and should do and does not reflect what the s182 Guidance says. This should be reworded”.

It is not intended that this paragraph provides a negative view of the role of the Licensing Authority in submitting representations. The Guidance advises that whilst Licensing Authorities may make representations they are not required to do so, neither are they required to make representations on behalf of others.

Question 7: The impact of the Cumulative Impact Policy:



Question 8: Please provide any other comments you have about the Cumulative Impact Policy

The following responses were received; where necessary, the response from the Licensing Team follows in blue:

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"We do not seem to have relevant problems in Ubley"

Thank you for this comment.

"Too many premises, too few Police Officers and B&NES Enforcement Officers"

The Licensing Team reiterate the previous comment about the work of the Licensing Enforcement Group in responding to complaints.

"Evidence shows a drop in crimes relating to the Night Time Economy over the last 5 years in B&NES which is encouraging and mirrors a national trend. We will continue to lobby for a Public Health Objective in the Licensing Act to enable a population approach to the availability of alcohol in an area which would also include off sales".

In the course of revising its Statement of Licensing Policy the Council held an Alcohol Scrutiny Inquiry Day in October 2013, which brought together 68 key stakeholders including Local Councillors, voluntary and community sector partners and Council officers to debate how best to reduce alcohol misuse in our area. Participants felt strongly that there needed to be more emphasis on the prevention of alcohol harm through national policy and in particular called for the protection and promotion of public health through the licensing process.

For this to be effective there would need to be a change in primary legislation and the creation of statutory guidance to assist Licensing Authorities and local Health Authorities.

"The CIP policy assists all parties within the night time economy. It concentrates applicant's considerations to make minimum impact on local residents in respect of all the licensing objectives. For the responsible authorities it provides a process of proportionate conditions being added to a licence where applicants clearly know what measures are expected of them, and furthers the measures in the operation of well managed premises. It provides a strong tool for committee when deciding on applications. The data provided supports this policy".

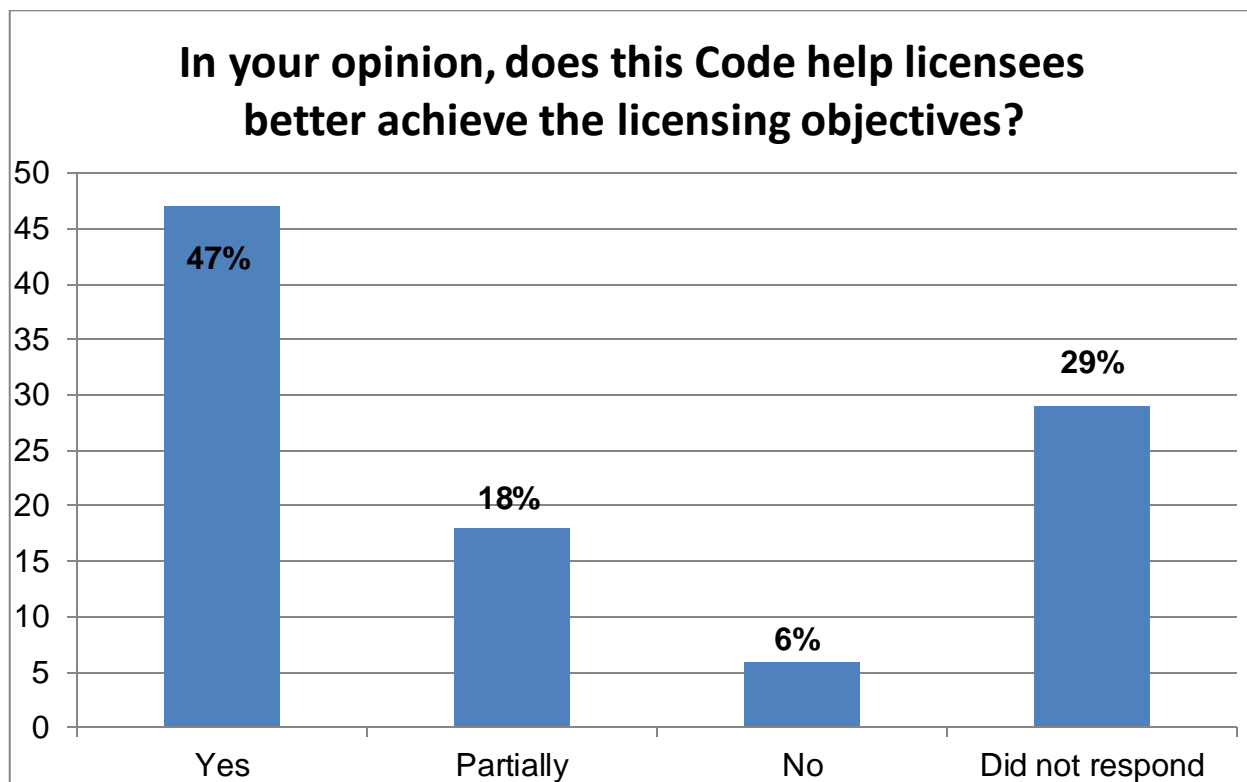
No further comments.

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Question 9: The Code of Best Practice

A Code of Best Practice for licensed premises has been developed to accompany the statement of licensing policy. This contains voluntary initiatives which will assist licensees in the successful operation of their business.



Question 10: Do you have any suggestions on changes we could make to improve the Code of Best Practice?

The following responses were received; where necessary, the response from the Licensing Team follows in blue:

"We would suggest the following additions:

The Licencing Policy includes numerous references to risk assessment and we believe the Code should offer some guidance about how these should be done.

It is important to make door security staff feel part of the team and to ensure they understand the ethos you are trying to promote.

Hold regular meetings with your local residents association to discuss your future plans and hear their concerns.

Have the duty manager regularly go outside the premises to see and hear what it looks and sounds like to passers-by and neighbours."

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Thank you for these above comments, all of which will be incorporated into the Code of Best Practice.

“Give the nearest noise sensitive premises a contact number so that they can call to alert you to the fact that nuisance is occurring.”

Licensed premises should not be reliant on nearby residents to inform them they are causing noise nuisance. Premises should be proactive in ensuring they have an effective noise management plan so as not to cause nuisance and leave them liable to action under the Environmental Protection Act 1990.

“More and forceful enforcement”

The Licensing Team reiterate the previous comment about the work of the Licensing Enforcement Group in responding to complaints. When necessary the Licensing Authority has taken enforcement action resulting in, for example the revocation of a number of Premises Licenses on the evidential basis of crime and disorder and the protection of children from harm

“Include best practice examples from other areas to show the benefits of these initiatives. Include details of the local alcohol treatment and support services for staff who may have alcohol misuse problems.

Encourage premises to display alcohol units literature and details of alcohol support services available locally.

Encourage premises to participate in Designated Driver scheme promotion and drink drive messages”

“Include the importance of regular training for all staff concerned in the sale and management of premises.

“For larger premises to have a dispersal policy to minimise the effect on local residents and prevent mass exodus from premises”.

Thank you for these above comments, all of which will be incorporated into the Code of Best Practice.

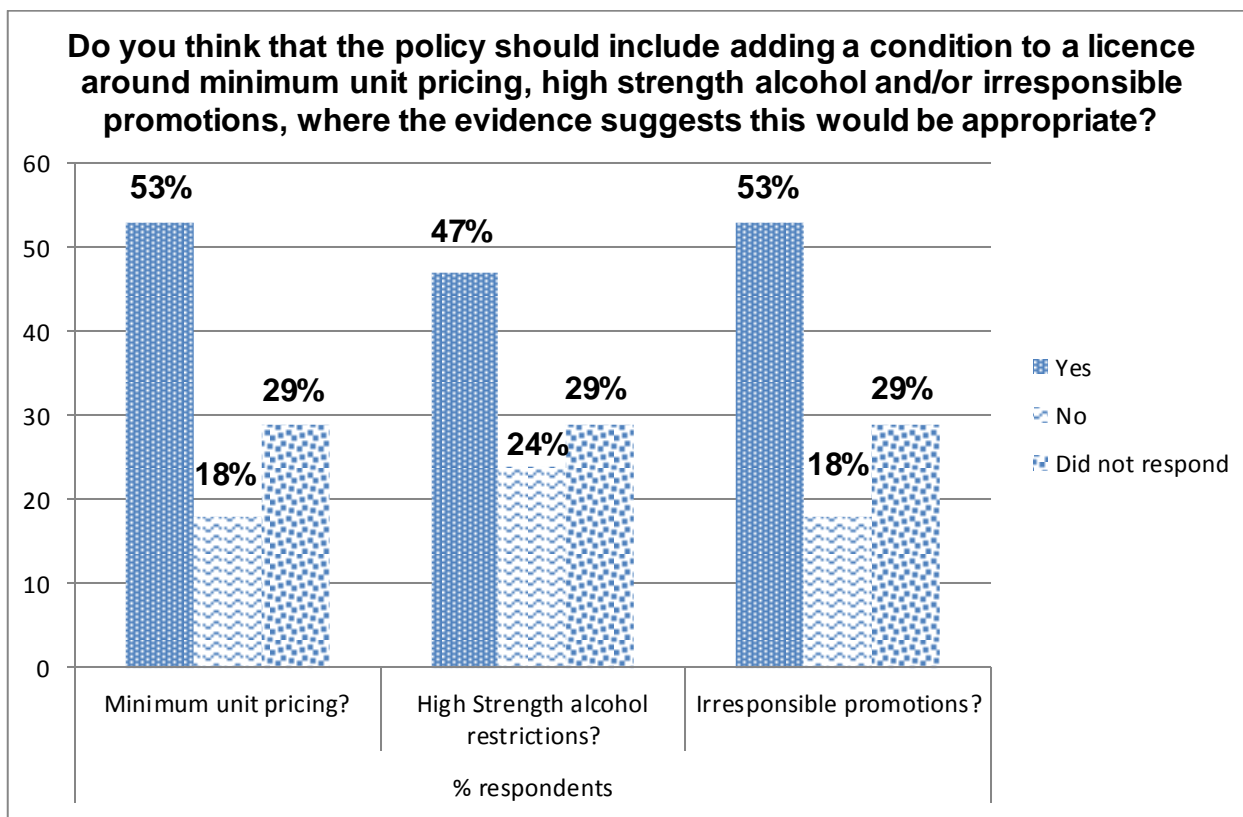
“I welcome the Code of Best Practice. I suggest this document is regularly updated as and when new successful initiatives and ideas are recognised. I would suggest the inclusion in the Code of Practice of the SWERCOTS scheme No Proof of Age - No Sale”.

Thank you for this comment. The intention is for the Code of Best Practice to be available on the Council's website so that it can be updated regularly when new information/best practice comes to light. The No Proof of Age- No Sale scheme will be included.

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Question 11: Additional mandatory conditions:



Question 12: If you answered "Yes" to any of these, please suggest how this should be worded to comply with the current legislation?

The following responses were received; where necessary, the response from the Licensing Team follows in blue:

"Use the Newcastle Council wording (this is a reference to the wording used by Newcastle City Council in their Statement of Licensing Policy".

The additional licence conditions relating to minimum unit pricing, high strength alcohol restrictions and irresponsible promotions can only be applied if a relevant representation is received supported by evidence of the issue. If this criterion is satisfied the Licensing Committee may impose conditions.

In response to the suggestion about the wording provided in the Newcastle City Council Statement of Licensing Policy, Section 2 of the draft policy will be amended.

"Don't overdo it. Less Alcohol and less weekly units consumption = clearer heads and a happier liver !!!"

No further comments.

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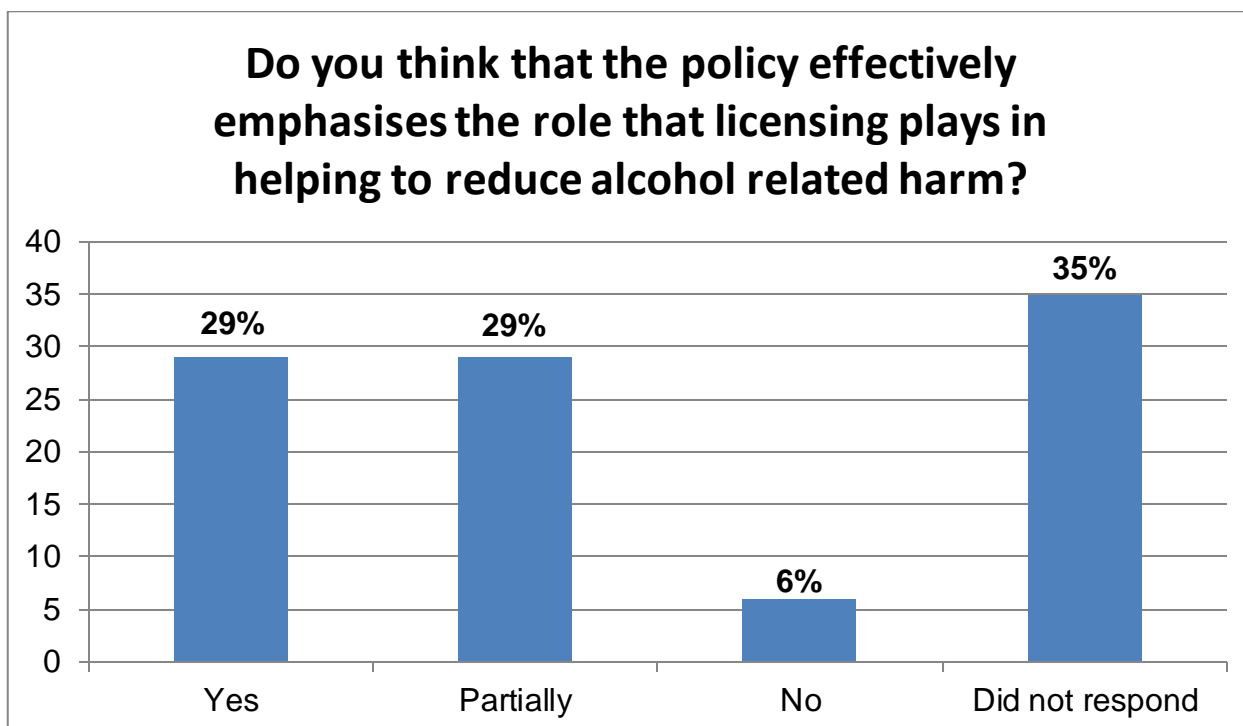
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“All these measures are highly desirable but become a legal and operational difficult area to enforce and administer. The wording of such conditions if considered would require legal input”.

[This is accepted and agreed.](#)

Question 13: The role of the policy in reducing alcohol related harm:

In this revision we have emphasised the role the licensing policy has in helping to reduce alcohol related harm.



Question14: Any suggestions on how this area could be improved?

The following responses were received; where necessary, the response from the Licensing Team follows in blue:

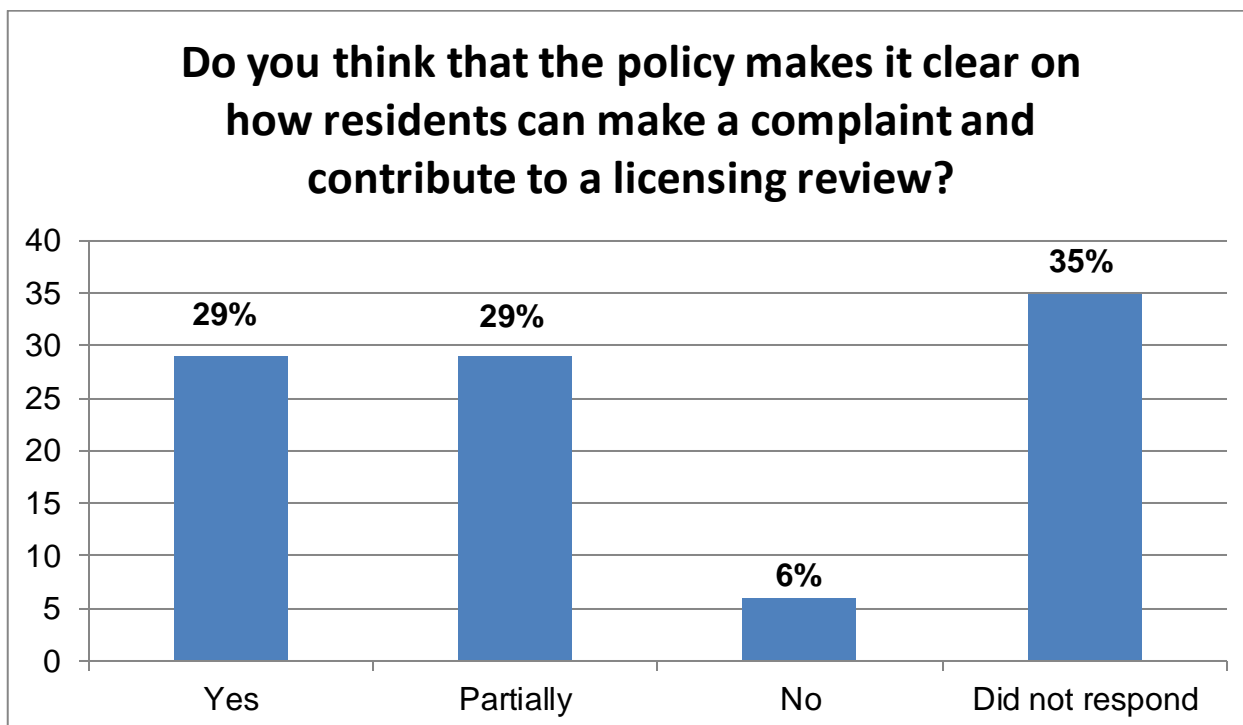
“Role in relation to Alcohol Related Harm is acknowledged. Main focus for this is in the Code of Best Practice for Licensed Premises which encourages License Holders to address a range of issues linked to responsible trading to prevent harm.

[No further comments.](#)

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Question 15: How to make a complaint and contribute to a licensing review:



Question 16: Any suggestions on how this area could be improved?

The following responses were received; where necessary, the response from the Licensing Team follows in blue:

"The section on 'How Complaints will be dealt with' gives some guidance on how to make a complaint however the document would probably benefit from a distinct section called 'How to make a complaint or contribute to a review' which lays out the steps - or a link to the website that gives this information."

"With regards to the question about how clear the policy is with regards to residents making a complaint or contributing to a licensing review, I would suggest there is a need to raise awareness that a process actually exists in the policy rather than just focusing on the wording of the policy itself."

The section will be amended to take these comments into account.

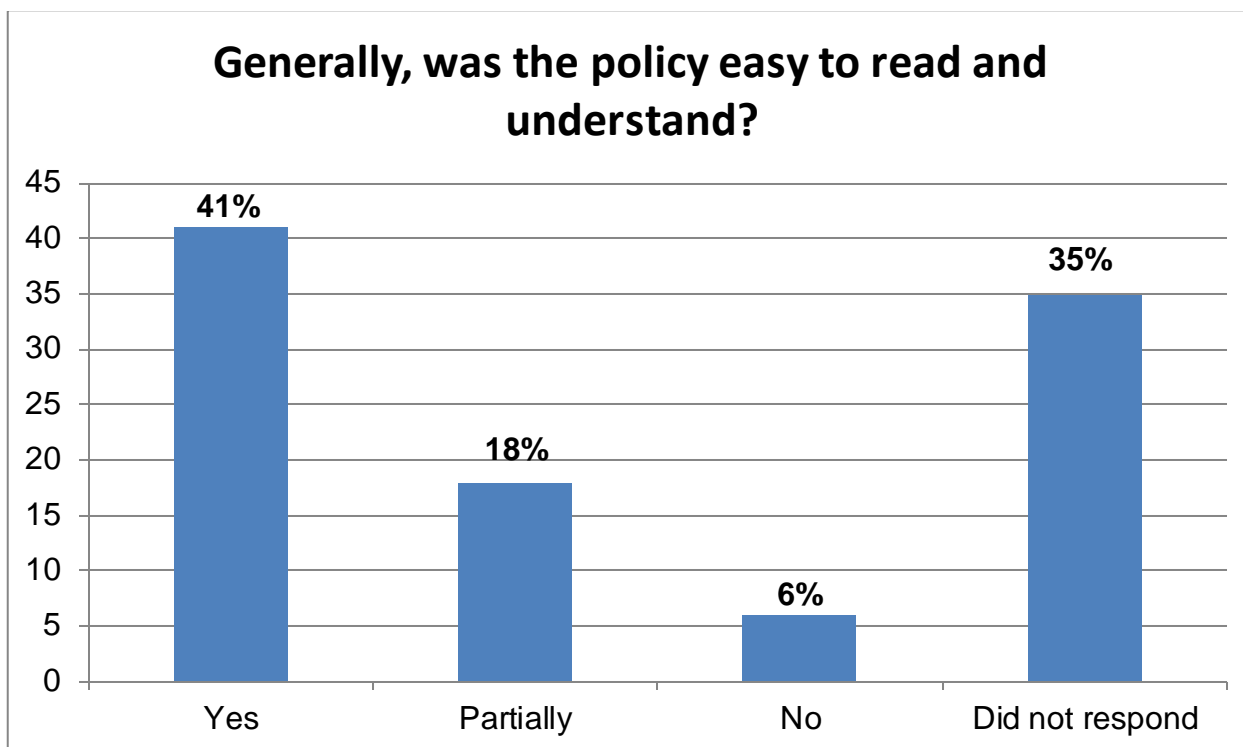
"Residents need to be made clearly aware of their responsibility in highlighting and reporting any breaches."

The Licensing Team would encourage any resident who is experiencing problems with licensed premises to contact them so the matter can be investigated. An online form is available on the Council's website to enable you to report such issues - www.bathnes.gov.uk/forms/licensed-premises-complaint-form

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Question 17: Is the policy easy to read and understand?



Question 18: Any suggestions on how this could be improved?

None received.

Question 19: Do you have any other comments you would like to make about the draft policy?

The following responses were received; where necessary, the response from the Licensing Team follows in blue:

“We have a village hall that has a licence to sell alcohol and most of our events are village/ hall committee arranged functions, private parties and once a year a beer festival. All are organised around the legal maximum number of people who can be in the hall at any one time.

The beer festival is the largest event that the hall committee deals with in terms of numbers of people attending. The local police are always informed and may have a presence at the event.

We obviously comply with current requirements, but most problems addressed by the policy are not evident in our village at events.”

No further comments.

“too many drinking places in the centre of Bath”

The location of licensed premises is dictated by the planning regime for which wide ranging consultation is undertaken.

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"We think the introduction should include a statement explicitly acknowledging the role of the local authority in balancing the legitimate aspirations of business in the Night Time Economy with the rights of residents in the areas where they operate."

The Statement of Licensing Policy will have a foreword by Cllrs David Dixon and Simon Allen which emphasises this.

"Paragraph 2.4 says It is expected that when promoting low priced alcohol, all premises will be considerate of the effect such promotions are having on our large student population, as well as being mindful of the negative effect promotions aimed at females often have. We are not clear what effect the Licencing Authority expects this to make in practice? How do they expect premises who had read this sentence to behave differently from premises that had not?"

It is the expected that all premises will read and understand the Council's aims and objectives set out in the Statement of Licensing Policy together with the Guidance issued in relation to the mandatory conditions. It is further expected that premises will operate in a professional manner and more importantly operate in accordance with the terms of their Licence to avoid any detrimental effects that their operation may have on those using the premises and the wider community.

"Paragraph 3.6 is, as drafted, very defensive. We believe this policy statement ought to include a statement of when the BANES will use its new status as an interested party not just when you will not."

This paragraph will be amended to emphasise that the Licensing Team will use its status as a Responsible Authority on a case by case basis, when other Responsible Authorities have chosen not to act and a view is taken that there is a need to do so.

"Paragraph 6.17; is far too prescriptive particularly in relation to the Environmental Protection Act. There are a number of situations in which noise generated by licensable activities is significantly undermining the licencing objectives but cannot be effectively dealt with by the provisions of the Environmental Protection Act for instance when the noise is regular but intermittent or the noise level is not above statutory limits but is still causing nuisance. In these situations it is necessary that the licencing authority act to support the objectives being undermined and officers and members should have the freedom under this policy to make that judgement."

The Environmental Protection team are a Responsible Authority in their own right and have their own set of powers which Licensing must not duplicate. Whilst the Police and Anti-Social Behaviour Act 2014, when it becomes fully effective, will create new powers which may apply in the circumstances described, these will be dealt with outside of the Licensing regime.

"Paragraph 17.2. How will the Licencing Authority encourage all the excellent things mentioned in this paragraph? For this to be meaningful, not just motherhood and apple pie, there must be some reference to mechanisms?"

The mechanisms are referred to in the non-exhaustive list and are supported through Licensing Enforcement Group visits.

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“Paragraph 17.3. Whom does the licencing authority see as its key partners? What form will these partnerships take for instance does the policy envision formal partnering agreements and structures?”

Our key partners are the licence holders and Responsible Authorities. The way in which the Licensing Authority works with these partners is has been formalised in the Enforcement Protocol last reviewed in June 2014.

“Paragraph 21.2. We see no justification for enforcement being graduated; particularly when a premise has been in business for some time there is no excuse for breaches particularly minor ones. Enforcement is a major issue for residents; examples of failures to comply are far too frequent suggesting premises do not respect the current enforcement policy. Enforcement resources are very limited which means warnings and cautions are often not followed up effectively.”

The Licensing Authority takes enforcement very seriously and works within the Service Enforcement Policy which advocates a proportionate approach. There is a balance between enforcement and supporting businesses to help them achieve compliance without the need for formal, costly Council intervention. When necessary, however, the Licensing Authority has taken enforcement action resulting in, for example the revocation of a number of Premises Licenses on the evidential basis of crime and disorder and the protection of children from harm.

“Paragraph 21.4. What is the Authority’s policy on the level of resourcing it will provide for enforcement activities requiring the involvement of BANES officers? What is its policy on out of hour provisioning?”

The Licensing Authority takes its enforcement functions very seriously and Officers undertake ‘out of hours’ visits as part of Licensing Enforcement Group. This Group carried out over 90 visits in 2013 with a Licensing Officer present on each occasion.

“Paragraph 35.5. As a statement of policy this is very unclear.”

This paragraph will be deleted.

“Section 36 focusses primarily on harm to children on licenced premises. The policy needs to acknowledge harm potential off site for example children whose sleep is disturbed by rowdy drinkers, exposure to drugs paraphernalia, exposure to advertising in premises window and street flyers which use foul language or glorify the consumption of alcohol and drunkenness.”

The Policy can only refer to the protection of children from harm on the licenced premises to ensure compliance with the provisions of the Licensing Act 2003.

“Section 37.1. The policy statement needs to recognise that it is often a very daunting prospect for residents to approach the proprietors of licenced premises with complaints. The policy should include referring complainants to organisations that could help them in approaching proprietors, such as residents associations, or the licensing authority itself being more proactive in acting as a mediator.”

The section will be amended to take these comments into account.

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“One of the frustrations objectors often experience is that applicants make assertions about how their business will be run or promises about what they will do which the committee acknowledge has influenced their decision but which do not or cannot get turned into conditions on the licence. It would be useful if the licencing authority maintained a register of these influential assertion and promises so that at subsequent hearings the committee can get a sense of the integrity of the applicant.”

Whilst the comment is acknowledged, each contested application must be dealt with on its merits and on the evidence presented by the Applicant, Interested Parties or Responsible Authorities. The Licensing Authority as determining body cannot gather and produce information with a view to influencing the outcome of any decision. It will be reiterated to the Committee Members that consideration should be given on how any ‘promises’ made by an applicant during the course of a hearing can be made into clear enforceable, conditions which are appropriate for the promotion of the licensing objectives.

“Other authorities when making CCTV a condition of a licence go beyond specifying the number and siting of cameras and specify minimum technical standards that must be met.”

This is a matter for the Licensing Committee as it feels appropriate.

“The policy should include a commitment about how quickly applications will go up on the Council’s web site.”

The Council endeavours to do this as soon as possible and typically applications are processed and on the Council website within 2 working days.

“I think we need some kind of TENS light for very small scale alcohol sales on a not for profit basis eg the local WI having a glass of wine at a meeting and charging enough to cover the costs or an art show with the offer of a glass of wine alongside tea and cake. It is hard to know how this could be designed to avoid abuse - but the current admin (although small) and fee puts users off and in fact this style of alcohol as a refreshment rather than a means of drinking to oblivion is surely what we would prefer. I am sure the professionals at BANES would know of examples where this has been successfully applied.”

The point being made here about Temporary Events Notices is appreciated however there would need to be a change in primary legislation to achieve this.

“It was great meeting today and having a chat about The Licensing Policy and Code of Best Practice. As someone on the frontline selling alcohol, it was useful for me to talk to someone from Licensing and get their take on things.

I've just read the Code of Best Practice, it was easy to read and understand and as we discussed earlier a lot of the content is common sense! Having the various websites and contact details in it for relevant/helpful organisations is a great idea as well.

If there is anything else I can help with in the future then please don't hesitate to contact me.”

Thank you for your comments.

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“TENS are unnecessary for small resident’s associations get-together /parties etc”

The point being made here about TENS is appreciated however there would need to be a change in primary legislation to achieve this.

“There is clearly a need to educate all local residents to their responsibilities on reporting anything which causes problems in their area. If the population is unaware of where to complain they will not complain”

Details of how to complain and instigate a review are available on the Council's website together with an online form which enables residents and businesses to report matters to the licensing team. Licensing Officers will always readily advise persons reporting licensing issues via more traditional means such as letter, telephone or through any of the One Stop Shops.

“Para 1.3 Surely the aim should be to encourage law-abiding and sober establishments, and to discourage ‘boozers’? We suggest adding ‘dance halls’ (for example) after ‘restaurants’, and, ‘while discouraging those which serve alcohol-only and which disregard the licensing rules’ after ‘evening.’”

This paragraph will be amended to state ‘similar establishments’ rather than dance halls.

“Para 2.3 The vulnerable are not the only people affected by binge drinking. After ‘families.’ add ‘(and not just those doing the drinking – neighbours, residents and passers-by too)’”

This paragraph will be amended to take account of this comment.

“Para 16.5 The B&NES website is quoted here, but not the relevant part of it. This website is huge. It would be helpful to guide the reader more specifically.”

A specific file path will be provided www.bathnes.gov.uk/licensing

“Paras 35.5 and 35.6 There is a non-sequitur here. The two paragraphs should be amalgamated.”

Paragraph 35.5 will be deleted.

“The process of consultation and involvement in the development of this policy statement has been very inclusive and to be commended. We have welcomed the Licensing Teams efforts to include a Public Health perspective in the document, given the confines of the existing Licensing Objectives and the subsequent development of a voluntary code of best practice for Licensed Premises.”

Thank you for this comment.

“The draft policy within the constraints is a good document that reflects all matters within the process.”

Thank you for this comment.

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“Housing Services operate schemes for the licensing of houses in multiple occupation (HMO). I propose that this policy includes a reference to HMO licensing and that this is a requirement in Oldfield, Westmoreland and parts of Widcombe. The purpose is to help ensure that shared housing is safe and well managed. Contact B&NES Housing Services for more information (01225 396444).”

This policy is made under the Licensing Act 2003 and cannot take account of other licensing legislation such as housing.

“While you can’t make it mandatory for clubs and license premises to attend pub watch and night watch meeting, attendance and CSR should be looked on favourably and strongly from the licensing authority within this policy statement.

I guess this is the reason why you have produced the code of best practice? Some licensed premises have it as a condition of their licensing agreement to attend a pub watch scheme but this is rarely enforced. Some national breweries make it of a condition of their staff employment contract to attend pub watch style meetings. Anything which strengthened attendance and get pubs working together will reduce issues and engender a sense of community amongst the licence trade.”

The Licensing Team is supportive of the Nightwatch Scheme and we encourage licensees to attend. However, in the experience of Licensing Officers it is very difficult to enforce a condition making it mandatory for a licence holder to attend such meetings. Therefore, we have publicised the Nightwatch scheme in the Code of Best Practice.

“Page 36 – Point 45 Late Night Levy. *I think the business community would like a stronger statement than ‘kept under review’. The option of introducing such a levy at present is not economically viable particularly when other schemes are in place that contribute to the evening economy such as the Bath BID levy. (my guess is you are giving yourself an option to use it in the future) but we would not want you to do so because of the reasons outlined in the attached paper. A late night levy is more pertinent to metropolitan areas with a high concentration of late night premises.*

In the Government Review of BID, the response from the industry states “There are real concerns developing from many BID areas around the country with regard to the potential of multiplicity of levies through the imposition of a late night levy and or a TBID on top of the existing BID. The nature of the traditional BID model is such that there is a direct relationship and correlation between those paying the levy and those benefitting and the proximity of activity makes the outcome visible to those ‘local’ businesses.” A late night levy would not achieve this and so should be avoided in Bath.

There is no immediate plan to introduce a late night levy, but the Council reserves the right to introduce one if the circumstances dictate.

“Page 1 – 1.5 Bath and North East Somerset Council in collaboration with the Business Community through the Bath BID was the first area in the South West to be awarded a ‘Purple Flag’ in January 2010. The award was granted by the **Association of Town and City Management and is the new ‘gold standard’.... Note ATCM name change in full. As a member of**

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ATCM we were a driver of Purple Flag for Bath. Please can this be acknowledged alongside B&NES. Thank you."

[This paragraph will be amended to take account of this comment.](#)

"Code of Practice for Licensed Premises

This is a positive step forward and welcomed. For your information – The scheme in Bath is now known as Nightwatch.

Page 2 Security could the following be added:

- *If you are a licensed premises in Bath, please participate in the Bath BIDs Nightwach radio scheme that connects licensed premises with the Police, CCTV and other Licensees.*

Page 3 Door Staff

- *If you are a licensed premises in Bath, Fluorescent Jackets for Door Staff are provided free to Licensees through the Bath BIDs Nightwatch Scheme*
- *To ensure door staff carry an approved radio that connects them to CCTV, The Police and door staff colleagues throughout the city*

Page 6 Smoke Free

- *To provide a receptacle for the disposal of cigarette butts and keep the public area around your premises clean and welcoming."*

[Thank you for these comments which will be added to the Code of Best Practice](#)

A letter was received from the Wines and Spirits Trade Association in response to the consultation. This letter and the Council's response follow: