

Democratic Services

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Date: 26 September 2014

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To: All Members of the Licensing Committee

Councillors: Manda Rigby (Chair), Patrick Anketell-Jones, Cherry Beath, Bryan Chalker, Anthony Clarke, Gerry Curran, Andrew Furse, Roger Symonds, Tim Warren, Chris Watt and Brian Webber

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing Committee: Monday, 6th October, 2014

You are invited to attend a meeting of the **Licensing Committee**, to be held on **Monday, 6th October, 2014 at 2.00 pm** in the **Council Chamber - Guildhall, Bath.**

The agenda is set out overleaf.

Yours sincerely



Sean O'Neill
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Sean O'Neill who is available by telephoning Bath 01225 395090 or by calling at the Guildhall Bath (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting Sean O'Neill as above.

3. Recording at Meetings:-

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people. For more information, please speak to the camera operator

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- 4. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 5. Attendance Register:** Members should sign the Register which will be circulated at the meeting.

6. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.

7. Emergency Evacuation Procedure

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

Licensing Committee - Monday, 6th October, 2014
at 2.00 pm in the Council Chamber - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 7.

2. ELECTION OF VICE-CHAIR (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

7. MINUTES: 7 JULY 2014 (Pages 7 - 10)

8. REVIEW OF THE COUNCIL'S STATEMENT OF LICENSING POLICY (Pages 11 - 124)

9. STREET TRADING POLICY (Pages 125 - 174)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on 01225 395090.

Protocol for Decision-making

Guidance for Members when making decisions

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

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BATH AND NORTH EAST SOMERSET

LICENSING COMMITTEE

Monday, 7th July, 2014

Present:- Councillors Manda Rigby (Chair), Anthony Clarke, Gerry Curran, Andrew Furse, Chris Watt and Brian Webber

Also in attendance: Cathryn Humphries (Team Manager- Health and Environment (Environmental Protection and Licensing)), John Dowding (Senior Public Protection Officer) and Shaine Lewis (Principal Solicitor)

1 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

2 ELECTION OF VICE-CHAIR (IF DESIRED)

RESOLVED that a Vice-Chair was not required on this occasion.

3 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillors Patrick Anketell-Jones, Cherry Beath, Bryan Chalker, Roger Symonds and Tim Warren.

4 DECLARATIONS OF INTEREST

There were none.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

6 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

There were none.

7 ITEMS FROM COUNCILLORS AND CO-OPTED AND ADDED MEMBERS

There were none.

8 MINUTES: 7 APRIL 2014

These were approved as a correct record and signed by the Chair.

9 APPROVAL OF TAXI AND PRIVATE HIRE VEHICLE TESTING STATIONS

The Team Manager for Environmental Protection and Licensing summarised the report. She said that at present six garages within B&NES were approved to carry out taxi inspections. A review of the current approval process for garages had been undertaken, which had identified three options:

1. To continue to regulate the number of garages approved to undertake licensed vehicle inspections, with garages tendering to achieve approved status.
2. To permit any VOSA approved MoT centre to carry out the licensed vehicle inspections.
3. To bring all licensed vehicle inspections “in-house”

Appendix A set out the arguments for and against each option. Option 1 was the preferred option. She explained that the decision about which option would be adopted would be taken by officers, but Members were, in the interests of openness, being given an opportunity to comment.

Councillor Furse said that he did not consider option 3 to be acceptable. He also wondered why a limit should be placed on the number of garages approved to do inspections. He suggested that any garage which reached the required standard should be approved; this would be in effect a modified version of option 1.

The Senior Public Protection Officer said that limiting the number of garages made it much easier for the Licensing Authority to communicate with them. For example, it had come to light that some vehicle had had diesel particulate filters removed because of the expense of maintaining them. A phone call from the Authority to six garages was all that was required to remind them to check that these filters were fitted and functioning. Councillor Watt suggested that that this was clear evidence that the current system had not been working: the garages had not been checking these filters, even though this was a requirement. The claim that a restriction on the number of garages carrying out this work ensured higher quality control was therefore unfounded.

The Team Manager for Environmental Protection and Licensing explained that this review presented an opportunity to review procedures to ensure that they were robust and transparent.

Councillor Clarke asked whether there had been pressure from garages not on the approved list to be allowed to do the work. The Health and Environmental Manager said that there had been approach from one garage not on the list; it would be beneficial to open up the tendering process and encourage other garages to submit tenders. In reply to a question from Councillor Webber she said that the tendering process would be carried out within existing resources.

Councillor Watt asked what value was added by the taxi inspection, since it seemed to cover the same ground as the MoT. The Principal Solicitor pointed out that a taxi inspection was done annually, whereas in the case of new vehicle the MoT was carried out every three years. The Chair added that the taxi inspection also covered that operation of the meter. Councillor Watt asked where the requirements for taxi

inspections were specified. The Senior Public Protection Officer said there was a check list in the taxi vehicle licence. Councillor Watt said that he agreed that there should be a higher standard for taxis than other vehicles, but felt the present system failed to achieve this. He suggested that vehicle licence holders should be obliged to report adverse findings from inspections, even if they were merely advisory, to the Licensing Authority. He believed that the obligation for this should be on the licence holder and not on the garage. He was not convinced that option 1 would deliver a safer system than the present one. He also believed that vehicle owners should have a choice where to go for the inspections. Councillor Furse suggested that both the licence holder and the garage should be under an obligation to report adverse findings. Councillor Curran suggested that the obligation should be on the garage, by analogy with medical examinations carried out on behalf of companies; the obligation to report the findings was placed on the doctor, not on the patient. The Senior Public Protection Officer felt it was asking rather a lot of licence holders to report advisory findings from inspections; they sometimes deferred dealing with them for financial reasons.

Councillor Clarke said that he felt uncomfortable about limiting approved garages to an arbitrary number; he felt that all who met the standard should be allowed to do the work. Councillor Watt suggested that limiting the fees garages could charge for the work limited the quality of the inspections. The Principal Solicitor pointed out that Regulations limited fees to what was necessary to recover costs and this also applied to third parties because they were acting on behalf of the Licensing Authority.

After the discussion it was proposed by Councillor Clarke and seconded by the Chair and **RESOLVED** to recommend that the Licensing Authority should follow option 1 (approval of garages after a tendering process), but without limiting the number of garages that could be approved.

The Team Manager for Environmental Protection and Licensing offered to come back to the Committee after the tendering process had been completed to provide an update.

The meeting ended at 3.16 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Licensing Committee	
MEETING/ DECISION DATE:	Monday 6th October 2014	
TITLE:	Licensing Act 2003 Review of the Council's Statement of Licensing Policy	
WARD:	All	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Annex A- Copy of the responses to the online consultation exercise on the proposed Statement of Licensing Policy and Code of Best Practice for Licensed Premises</p> <p>Annex B- Copy of the proposed Statement of Licensing Policy and Code of Best Practice for Licensed Premises, including amendments (in red)</p> <p>Annex C- Night Time Economy evidence for Bath and North East Somerset</p>		

1 THE ISSUE

- 1.1 Section 5 of the Licensing Act 2003 ("the Act") requires a Licensing Authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the Authority carries out any function in respect of individual applications made under the terms of the 2003 Act. During the five year period the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate.
- 1.2 This report identifies the findings of the consultation exercise carried out on the proposed revision of the Council's Statement of Licensing Policy and the introduction of a Code of Best Practice for Licensed Premises. The report asks the Licensing Committee to note the comments received and to approve the officer's recommendations prior to the revised Statement and Code of Best Practice being presented to Full Council in November 2014 for adoption.

2 RECOMMENDATION

- 2.1 The Licensing Committee is asked to note the comments received from the consultation exercise and to accept the officer recommendations set out in Annex A.

2.2 The Licensing Committee are asked to recommend that the revised Policy and Code of Best Practice, provided at Annex B, is presented to Full Council at its meeting on 13th November 2014, with a recommendation that the Policy and Code of Best Practice is adopted.

2.3 The Licensing Committee is also asked to recommend the continuation of the existing Cumulative Impact Area in Bath City Centre.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 There are no financial, property or people implications presented by the adoption of this Policy and Code of Best Practice.

3.2 Costs for the licensing function will continue to be met from current licence fees. Fees are reviewed on a periodic basis to ensure that they are set at a level which covers costs only.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 The basis for this report stems from a statutory duty on the Council to review its Statement of Licensing Policy every five years.

5 THE REPORT

5.1 The Council have completed a thirteen week consultation on the review of its Statement of Licensing Policy in relation to the 2003 Licensing Act. For the first time a Code of Best Practice for Licensed Premises has been created to provide practical ideas on how licensees can achieve best practice with respect to the promotion of licensing objectives. The opportunity has also been taken as part of the consultation to review the area of the Cumulative Impact Policy which was introduced by the Council in 2007.

5.2 The report brings to the Committee the findings of the consultation together with officer comments and recommendations. An online consultation tool was used via the Council's website and respondents were requested to answer questions and provide general comments. 17 people/organisations responded to the online consultation and an analysis of their comments is provided in Annex A.

5.3 Copies of the amended Statement of Licensing Policy and Code of Best Practice, which includes the officer recommendations, is provided in Annex B.

5.4 The Licensing Committee are requested to note the comments received from the consultation exercise; to note the officer comments, to approve the recommended changes and resolve that the revised policy is presented to Full Council at their meeting on 13th November 2014 with a recommendation that both it and the Policy and Code of Best Practice is adopted.

5.5 The consultation included those listed below:

- The chief officer of police for the area;
- The fire and rescue authority for the area;
- Persons/bodies representative of local holders of premises licences;

- Persons/bodies representative of local holders of club premises certificates;
- Persons/bodies representative of local holders of personal licences;
- Persons/bodies representative of businesses and residents in the area;
- All Ward Councillors, Town Councils and Parish Councils;
- All 3rd tier Council Officers;

5.6 The Act states the above persons/bodies should be consulted and the Statutory Guidance states their views should be given appropriate weight when the policy is determined.

5.7 The Government's guidance also states;

- All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote
- While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in The Act
- No statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in The Act
- Policies should make it clear that licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of The Act
- The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations
- The statement of policy should also make it clear that 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
- Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible
- Statements of policy, should express the intention to establish protocols with the local police and the other enforcing authorities

Further information regarding what should be contained in a Statement of Licensing Policy can be found in Home Office guidance issued under section 182 of the Licensing Act 2003. The link for this guidance is replicated below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2_.pdf

5.8 With regard to the cumulative impact area (CIA), research was commissioned from the Council's Strategy and Performance team on the occurrence of incidents of anti-social behaviour within the Cumulative Impact Area since its introduction in 2007. A report summarising the findings of this research are found in Annex C. Comments were sought from Avon and Somerset Police on whether the geographical area of the CIA should be amended in light of this data, especially as there appeared to be a reduction in the incidence of anti-social behaviour in and around the Walcot Street area.

5.9 The view of Avon and Somerset Police is that Walcot Street continues to be a location for calls about anti-social behaviour and the street also serves a footway out of the city for those members of the public who are not taking taxis home. Therefore, their recommendation is that the geographical area of the CIA should remain the same. This recommendation is endorsed by officers.

6 RATIONALE

6.1 The rationale for this report stems from a statutory duty on the Council to review its Statement of Licensing Policy every five years.

6.2 The policy also links to the Council's duty to reduce crime and improve the public realm.

7 OTHER OPTIONS CONSIDERED

7.1 Advice has been sought from the Council's Legal Services and the Council's Monitoring Officer, and Section 151 Officer (Resources Director) have had the opportunity to input to this report and have cleared it for publication.

8 CONSULTATION

8.1 A consultation process has been carried out involving the following groups:

- all statutory consultees;
- Licensing Committee,
- Planning, Transportation and Environment Policy Development and Scrutiny Panel;
- North Somerset Council
- Visitors to the Bath City Conference
- Student Community Partnership
- Night Time Economy Group
- Alcohol Harm Reduction Steering Group
- Midsomer Norton Community Alcohol Partnership

8.2 In addition a stakeholder workshop was held on 17th July 2014 which was attended by representatives from Responsible Authorities, Resident's Associations, the Bath Business Improvement District and Councillors.

Presentations were delivered by Avon and Somerset Police, the Council's Public Health Team and the Abbey Resident's Association. Approximately 25 people attended and overall feedback indicated that 60% of attendees considered that the workshop fully met their needs.

8.3 This report has not been sent to the Trades Unions because there are no staffing issues resulting from it.

9 RISK MANAGEMENT

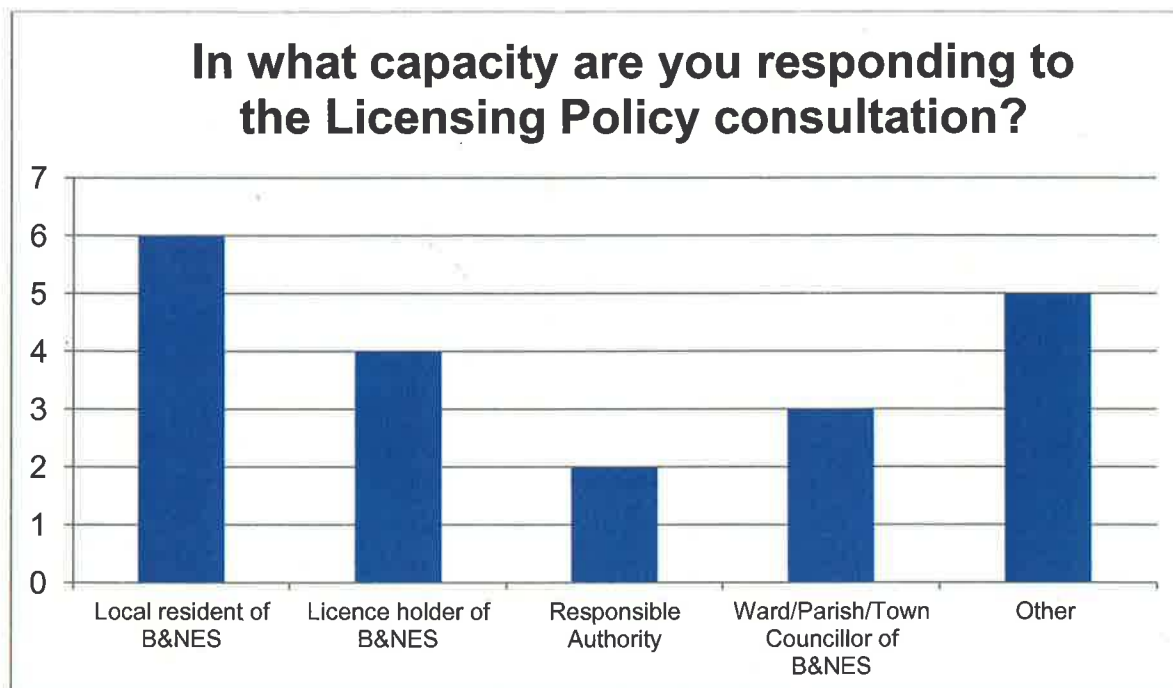
9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Cathryn Humphries, Licensing and Environmental Protection Team Manager (01225 477645)</i>
Background papers	
Please contact the report author if you need to access this report in an alternative format	

Annex A

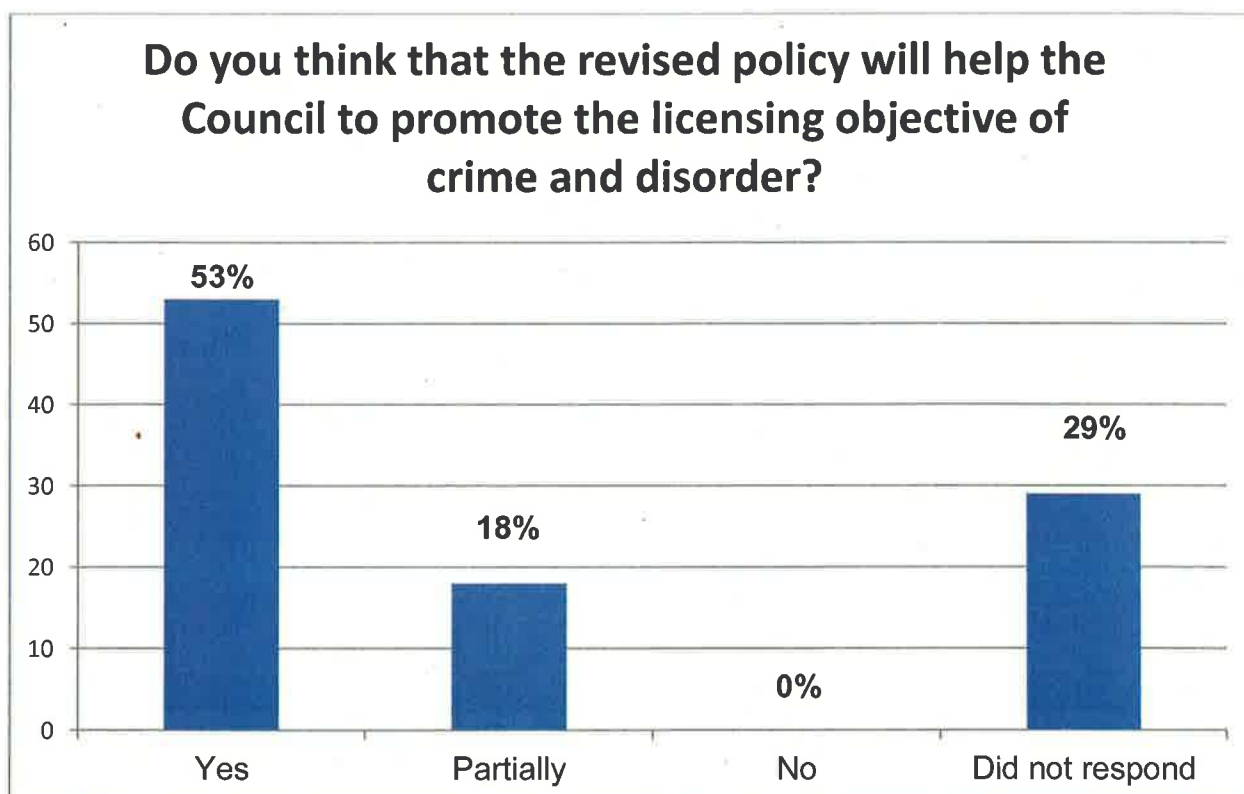
Statement of Licensing Policy- 2014 Consultation Responses

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).

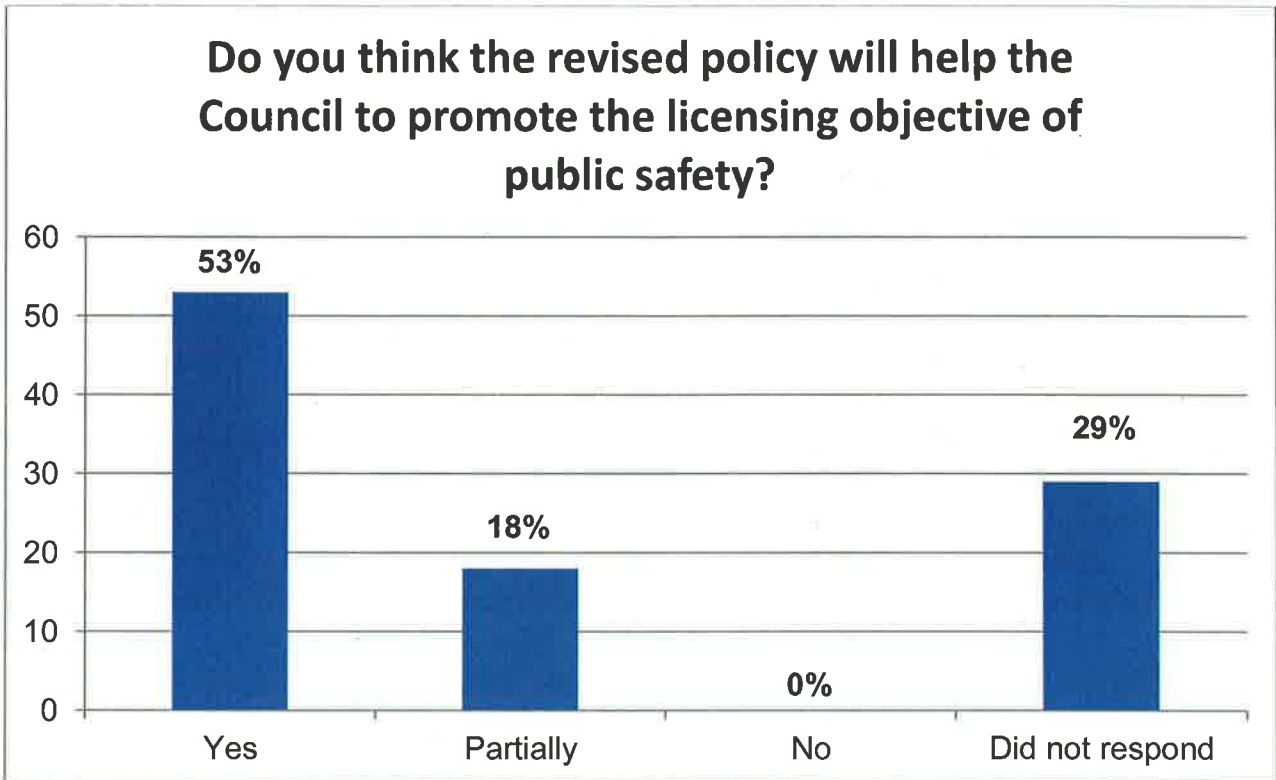
Question 2: Promotion of licensing objectives (crime and disorder):



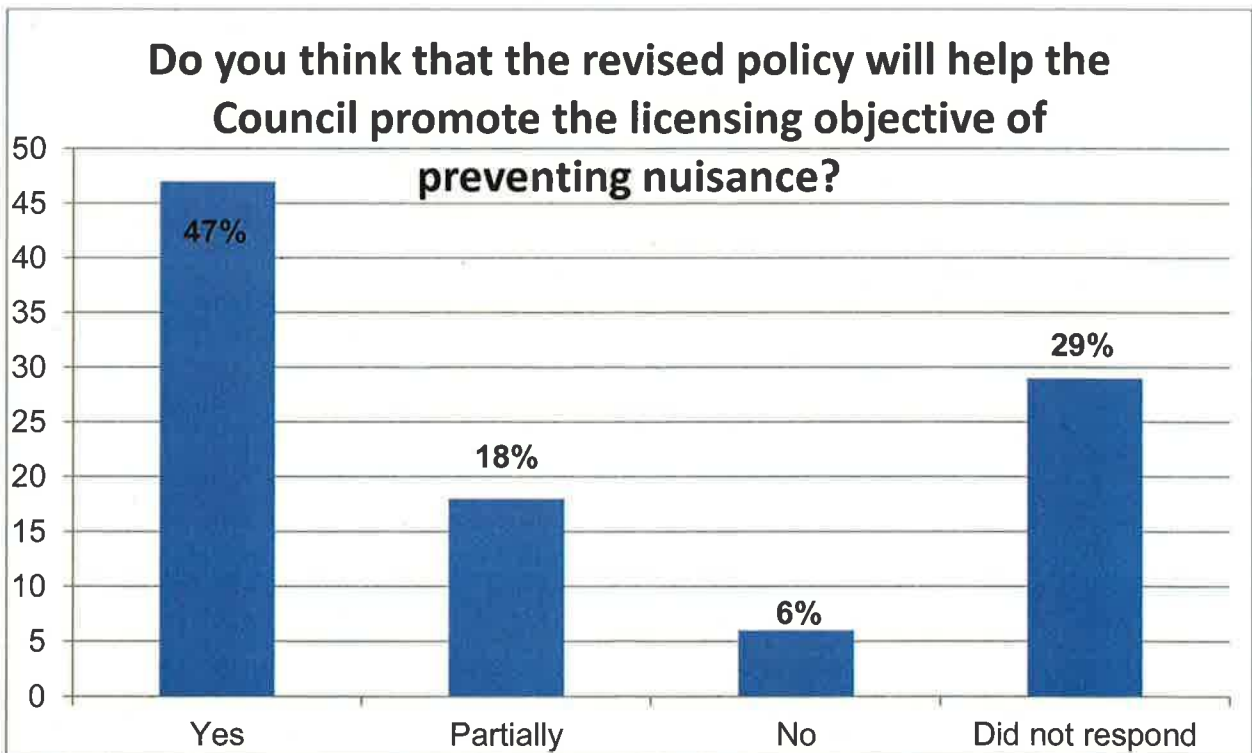
Annex A

Statement of Licensing Policy- 2014 Consultation Responses

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



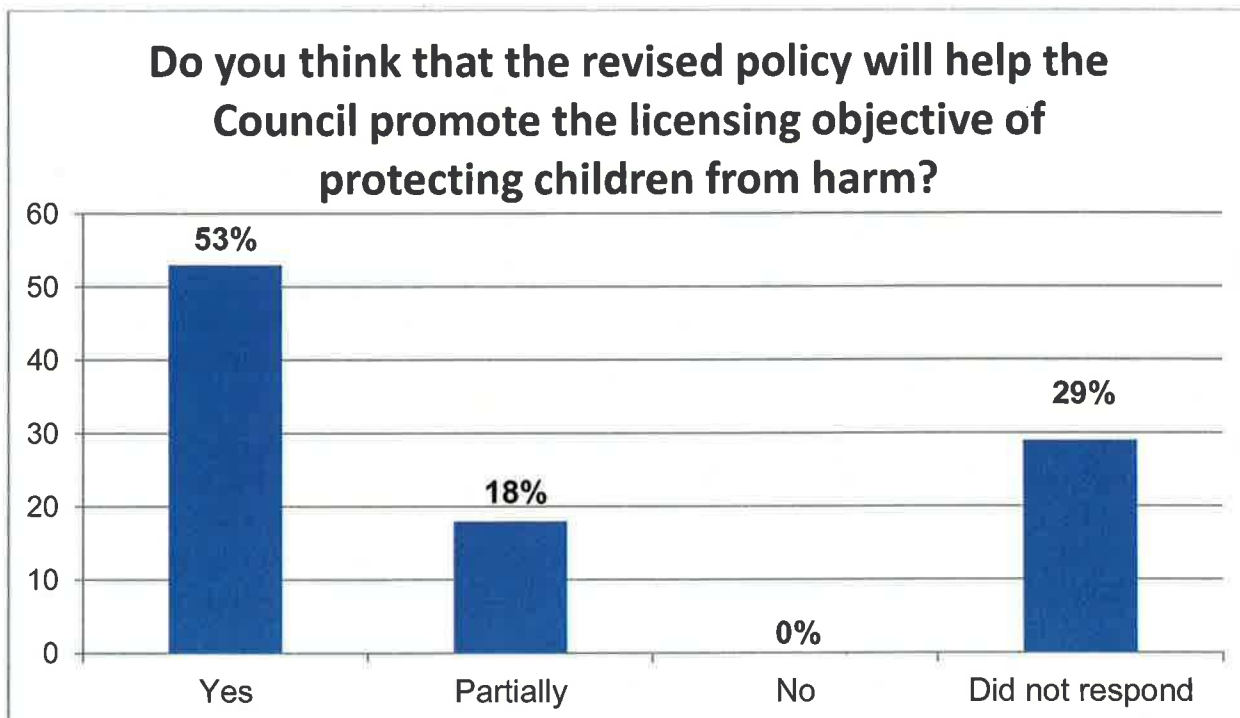
Question 4: Promotion of licensing objectives (preventing public nuisance):



Annex A

Statement of Licensing Policy- 2014 Consultation Responses

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.

Annex A

Statement of Licensing Policy- 2014 Consultation Responses

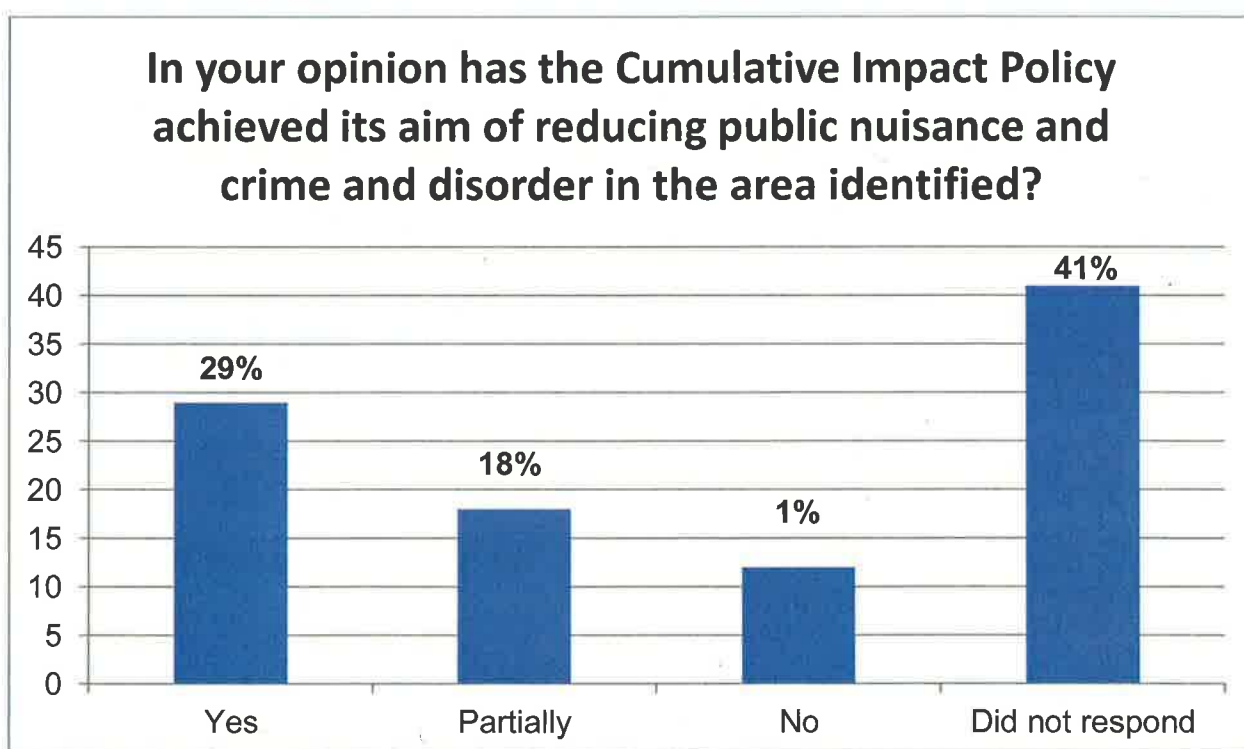
“Section 3.9 could be strengthened to emphasize the role the B&NES Licensing Policy plays in supporting the public health agenda in B&NES, in particular the aim of helping people to stay healthy through reducing levels of alcohol misuse in the population. It also contributes to the B&NES Alcohol Harm 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:

Annex A

Statement of Licensing Policy- 2014 Consultation Responses

"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".

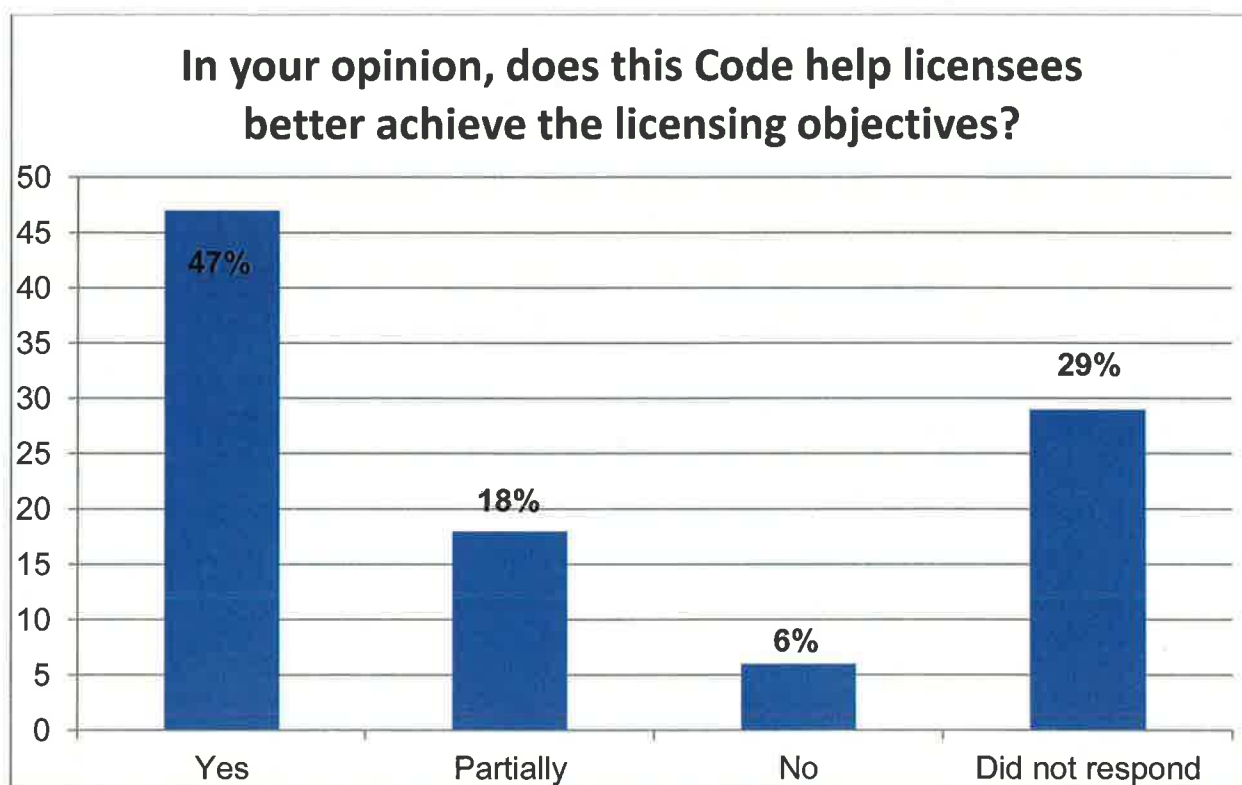
No further comments.

Annex A

Statement of Licensing Policy- 2014 Consultation Responses

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."

Annex A

Statement of Licensing Policy- 2014 Consultation Responses

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.

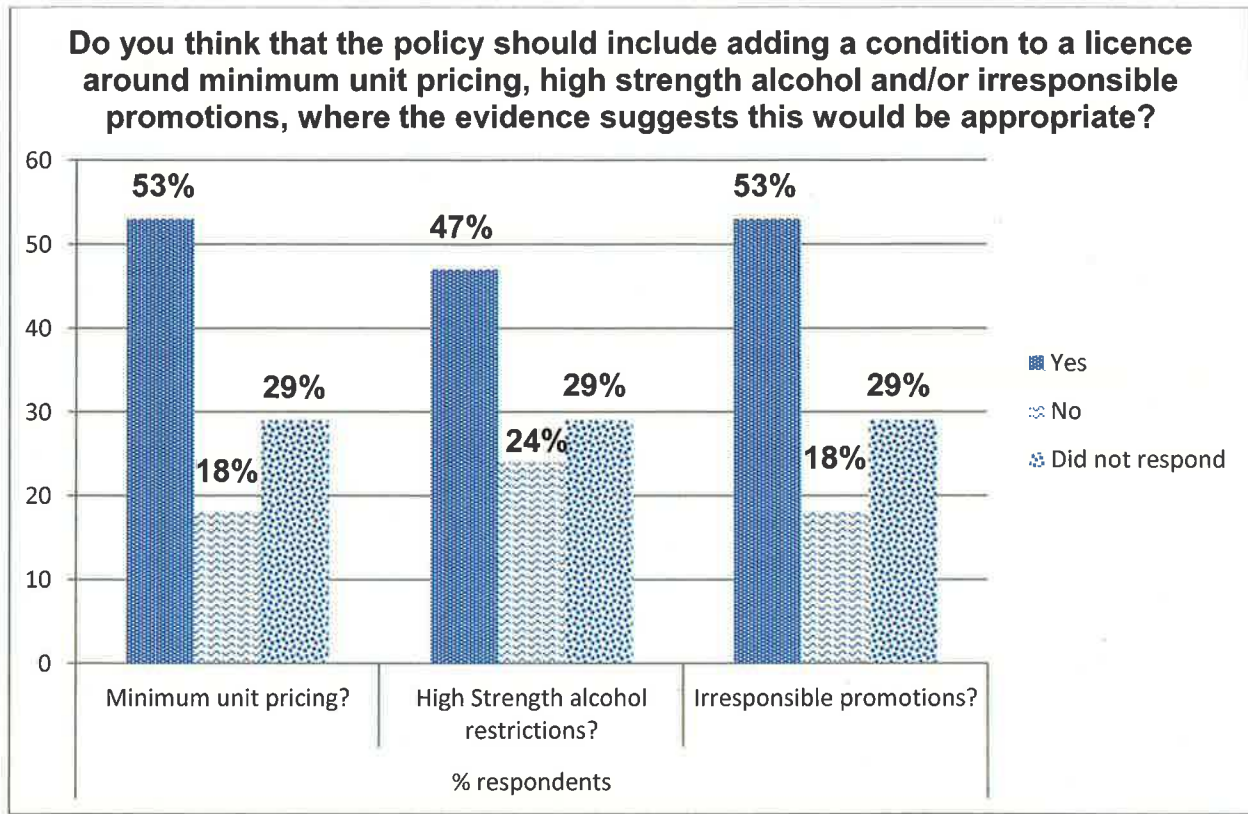
“I welcome the Code of Best Practice. I suggest this document is regularly updated as and when new successful initiatives and ideas are recognised. I would suggest the inclusion in the Code of Practice of the SWERCOTS scheme No Proof of Age - No Sale”.

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.

Annex A

Statement of Licensing Policy- 2014 Consultation Responses

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.

Annex A

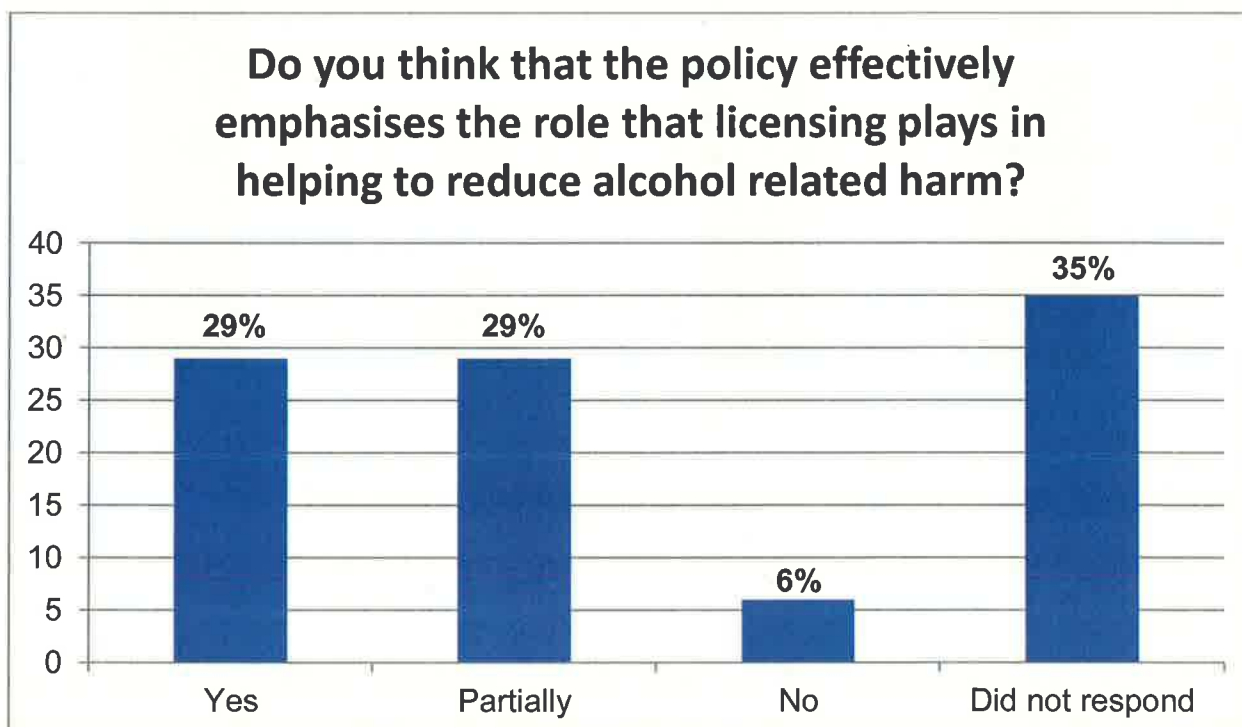
Statement of Licensing Policy- 2014 Consultation Responses

"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:

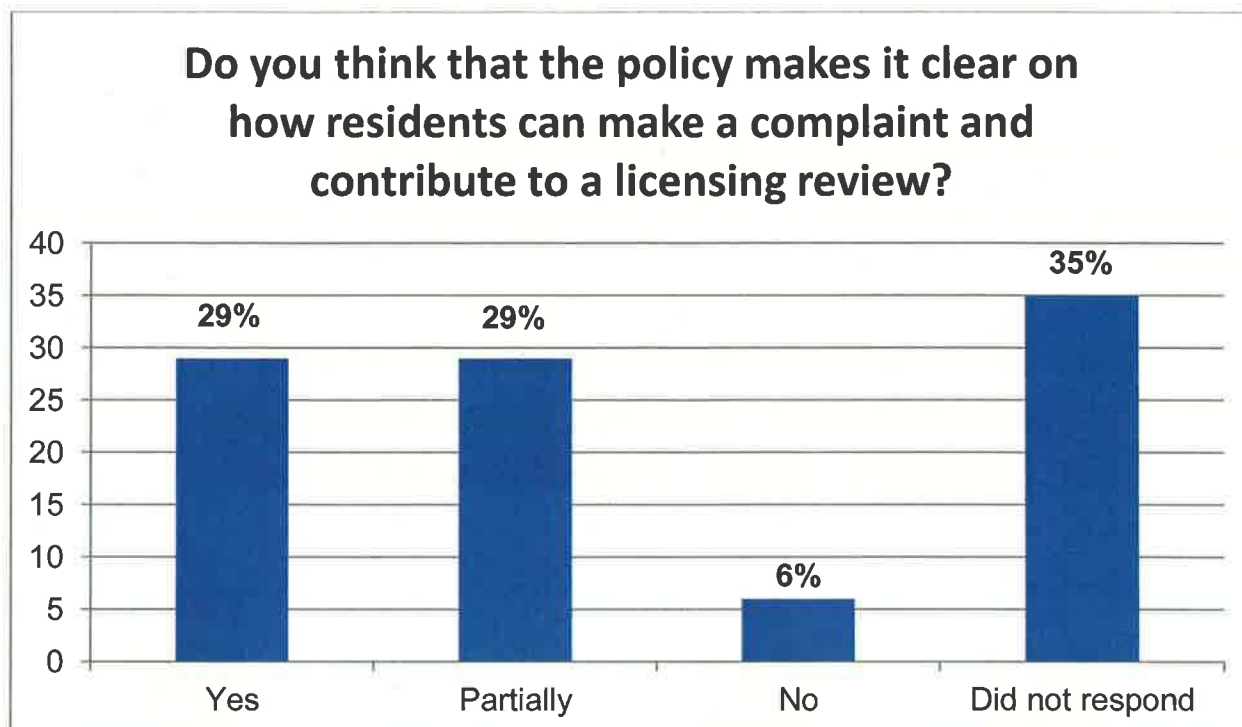
"Role in relation to Alcohol Related Harm is acknowledged. Main focus for this is in the Code of Best Practice for Licensed Premises which encourages License Holders to address a range of issues linked to responsible trading to prevent harm.

No further comments.

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Statement of Licensing Policy- 2014 Consultation Responses

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.

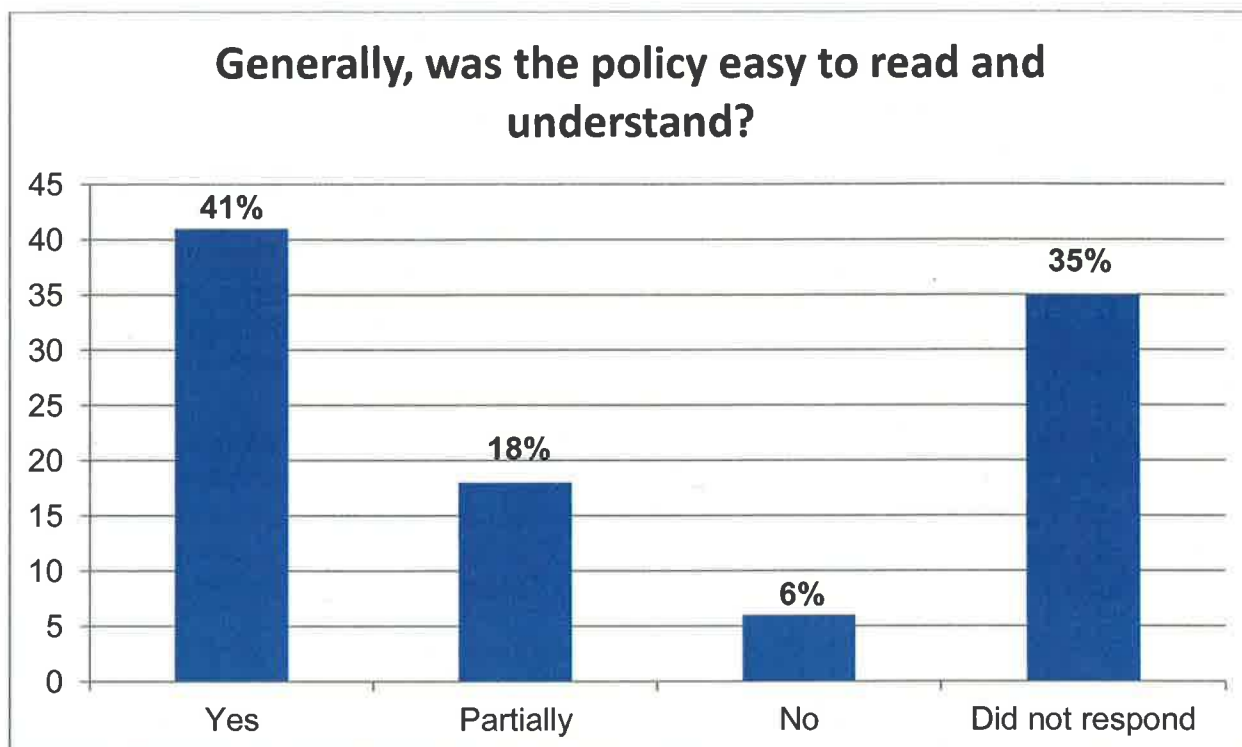
"Residents need to be made clearly aware of their responsibility in highlighting and reporting any breaches."

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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Statement of Licensing Policy- 2014 Consultation Responses

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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Statement of Licensing Policy- 2014 Consultation Responses

"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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Statement of Licensing Policy- 2014 Consultation Responses

“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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Statement of Licensing Policy- 2014 Consultation Responses

"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**

Annex A

Statement of Licensing Policy- 2014 Consultation Responses

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:

8934

Our ref. : JF/SS
28 May 2014

Mr J Lowman, Ms B Simmonds, Mr R Price &
Mr M Beale

WSTA
c/o British Beer & Pub Association
Brewers' Hall
Aldermanbury Square
LONDON
EC2V 7HR

Dear Mr Lowman, Ms Simmonds, Mr Price and Mr Beale

Thank you for your letter dated 15th May addressed to the Chief Executive who is Dr Jo Farrar.

After reading your correspondence, Dr Farrar has asked me to forward your correspondence to Mrs Louise Fradd, Strategic Director for this service area so that she can arrange for you to receive a response. Jo has asked for a copy of any response that is sent to you so she can place this on her records.

Yours sincerely

Sharon Stewart for
Dr Jo Farrar
Chief Executive
Bath and North East Somerset Council

cc Louise Fradd, Strategic Director: Place, Bath and North East Somerset Council

Acknowledge &
refer to house for
her team to
respond to.

Chief Executive
Bath and North East Somerset Council
The Guildhall
High Street
Bath
Bath & North East Somerset
BA1 5AW

Bath and North East
Somerset Council
Revenues & Benefits

21 MAY 2014

Received

15th May 2014

Dear Sir or Madam,

Local 'voluntary' bans on higher-strength beers and ciders and Minimum Unit Pricing of alcohol

We are writing in reference to the decision of Bath and North East Somerset Council to consider the implementation of a local scheme encouraging the removal of higher-strength beer and cider products as well as considering the implementation of Minimum Unit Pricing for alcohol.

As representatives of drinks producers and retailers, many of which are local, family or regional businesses, we would like to make you aware of some of the concerns we and our members have regarding the potential legal implications of policy decisions of this kind.

The proposals in many cases appear to attempt to impose the removal of certain higher-strength products as a generalist blanket condition across licences. Under licensing law, any such conditions should be evidence based and tailored to specific premises, and therefore the creation of a generalised scheme of this kind will exceed existing licensing powers and place retailers in an uncertain legal position should they comply.

While authorities are able to deal with licensees individually on an evidential basis, the Office of Fair Trading (now the Competition and Markets Authority) are clear that if a Local Authority acts to co-ordinate the independent commercial decision-making of businesses through non-mandatory means, such as the co-ordination of economic activity on non-price factors, such as product removal, they run a high risk of contravening competition law, even if this is on a voluntary basis.

Additionally there is a great concern that the Minimum Unit Pricing for alcohol will exceed licensing powers if applied on a mandatory basis, but also breach competition law if attempted on a voluntary basis. We have outlined further detail in the attached document.

It is for this reason that licensees are often not prepared to sign up to or be involved in a local schemes of this kind voluntarily. However, despite concerns about the legality and effectiveness of the withdrawal of products and local Minimum Unit Pricing our members take alcohol related harm, crime and anti-social behaviour very seriously and look to engage with local authorities in partnership to tackle these harms.

In order to ensure that local schemes are effective and sustainable, it is essential that they are legally sound as well as being evidence based and built upon strong partnership working in the local area. We have already written to Police and Crime Commissioners highlighting the existing powers local authorities

and police have to target local issues, and are working with a wide range of partners to support the expansion of existing industry schemes aimed at tackling alcohol-related issues within communities.

Although independent examination has yet to be carried out in areas that have withdrawn higher-strength products, it appears that a focus on enforcement of existing legislation and development of a comprehensive treatment and rehabilitation strategy have been more effective in tackling street drinking and associated anti-social behaviour than other measures.

Through partnerships with local authorities and other stakeholders, schemes have been developed like Community Alcohol Partnerships, Best Bar None, Purple Flag and Pubwatch which have been very successful in reducing the negative impact of alcohol across a range of areas. Following the announcement by the Home Office of the selection of twenty Local Alcohol Action Areas, the industry will be redoubling efforts to demonstrate the impact of effective partnerships in these areas. There is further information in the attached briefing on some of the measures that are available and have been effective elsewhere.

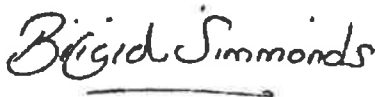
Given the legal issues outlined above, we would urge you as an authority to reconsider the policy that you have proposed and instead look to focus on a comprehensive strategy of enforcement, treatment and local partnerships which have a proven record of tackling alcohol related harm and can be done in close partnership with the trade.

If you would like any further information or are interested in discussing this in more detail we would be more than happy to meet with you to look at how we and our members can work with you to tackle shared objectives.

Yours sincerely,



James Lowman
Chief Executive
Association of Convenience Stores



Brigid Simmonds OBE
Chief Executive
British Beer & Pub Association



Robert Price
Director
National Association
Of Cidermakers



Miles Beale
Chief Executive
Wine & Spirits Trade Association

Schemes restricting higher-strength products – legal guidance

a) Use of blanket licensing conditions

As you will know a licensing authority's statutory power to impose s.18(4) conditions is not at large, but requires the trigger of "relevant representations" (s.18(3)), absent which the licence should be granted with conditions falling within a narrower compass (s.18(2)).

It is important to note that Parliament has identified certain mandatory conditions (s.19) and has entrusted the Secretary of State with the power to specify further mandatory conditions for the promotion of the licensing objectives but this does not extend to product bans. It is not open to local licensing authorities to act as regional legislators, imposing generally-applicable licensing conditions. The point is powerfully illustrated by the five mandatory licensing conditions which were imposed by the Secretary of State in the Schedule to the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010, including irresponsible promotions etc.

Furthermore, while local authorities may still discuss whether individual retailers would like to adopt the provision on their licence on a voluntary basis, licensing requirements extend to circumstances in which the effect is to create a generalised scheme through the voluntary acceptance under the threat of review or the desire to maintain good relations with the police and licensing authority and would apply to either general restrictions on the ABV strength or the targeting of specific products or brands. It is important for authorities to understand that it is these concerns regarding the legality of the policy, as well as concerns about the legality of their own role in these types of discussion, that leads to some retailers not supporting or being involved in these types of scheme.

b) Entirely voluntary schemes

Although we understand that some local authorities have taken the view that voluntary agreements with no use of licensing conditions are less onerous and restrictive to retailers, we would like to raise concerns about the risk this places on retailers of breaching competition law.

The Office of Fair Trading (now the Competition and Markets Authority) advises that there is a high risk of the Competition Act 1998 being infringed if a Local Authority:

'acts as a mechanism to co-ordinate the independent commercial decision-making of businesses through non-mandatory means, effectively substituting individual/unilateral decision-making with a co-ordination of economic activity (including on price and non-price factors)'

We therefore believe that the OFT have been clear that any coordinated voluntary agreement between businesses, such as an agreement not to stock certain brands or higher strength products, is at risk of infringing of competition law. Additionally, although technically voluntary, local retailers may feel compelled to participate in such schemes to maintain good relations with the police and licensing authority.

It is important for your authority to understand that it is these concerns regarding the legality of the policy, as well as concerns about the legality of their own role in these types of discussion, that lead to some retailers not supporting or being involved in these types of scheme.

Schemes that seek to apply a Minimum Unit Price - legal guidance

Licensing Authorities are restricted in their use of blanket conditions, as outlined in a) above. This same principle applies to any attempt to implement a blanket condition of Minimum Unit Pricing for alcohol.

Additionally, competition law about this is very clear about the creation of voluntary pricing restriction of this kind. Horizontal price-fixing arrangements by or between undertakings are a breach of the domestic Chapter I prohibition (Competition Act 1998 s.2(2)), and the EU Article 101 TFEU prohibition. The domestic and EU prohibitions are broadly equivalent for present purposes. So, s.2(2)(a) provides that the Chapter I prohibition is applicable to "practices which ... directly or indirectly fix ... selling prices".

Local voluntary schemes restricting higher-strength beers and ciders – alternatives

The industry is fully committed to working in partnership with local authorities and police to tackle local problems and is keen to engage in strategies to tackle alcohol misuse at a local level. There are already a wide range of powers in place which can be used to deal with alcohol related crime and disorder as well as a wide range of other measures including local partnership working, which can provide more sustainable long term solutions than removal of products.

1. Enforcement of current laws

Alcohol Control Zones: Under the Criminal Justice and Police Act 2001 local authorities have the power to introduce these (officially called Designated Public Place Orders), which give police the power to confiscate alcohol in a designated zone.

Serving drunks: Under section 141 of the Licensing Act 2003 it is illegal to serve drunks.

Dispersal notices: Under the Violent Crime Reduction Act 2006, Section 27 notices can be issued to order individuals to leave a given area and not return for 48 hours.

Drinks Banning Orders: Also under the Violent Crime Reduction Act 2006, an individual who breaks the law or causes problems whilst drinking, can be banned from drinking or possessing alcohol in public, buying alcohol and from entering certain licensed premises.

Underage selling: The Government recently increased the maximum fine to £20,000 for persistent underage selling at the same premises which can be just two occurrences.

2. Forthcoming legislation

Legislation to prevent below-cost-selling (defined as duty plus VAT) coming in on the 28th May 2014 and new anti-fraud measures will prevent the small numbers of retailers that sell at very low prices from doing so. This is particularly the case for beer, which has a higher duty rate for beers over 7.5% ABV.

3. Alcohol support services

Anecdotal evidence has shown that putting money and focus on providing support services to targeted individuals and getting them off the streets has had an impact on crime and disorder associated with the issue of street drinking. Whilst this is a complex issue with no easy solutions, tackling the causes of why people drink to this level and providing further help and support is likely to be much more effective and sustainable than simply removing certain products.

4. Partnership schemes

Partnership schemes contribute to creating a safer and more secure late-night economy in towns and cities around the country. Initiatives such as Pubwatch, Best Bar None, Business Improvement Districts, Community Alcohol Partnerships and Purple Flag fulfil a variety of different functions, but all help with tackling crime and anti-social behaviour. An outline of the various partnership schemes can be found at bit.ly/lapportman.

5. Awareness and education

The industry continues to be extremely supportive of initiatives to better educate and inform consumers. We are committed to help consumers in making informed choices through funding of Drinkaware, to supporting initiatives and campaigns on responsible drinking and unit awareness.

This was also defined by the Department for Business, Enterprise and Regulatory Reform, which stated "Businesses must not enter into agreements, decisions or practices which ... directly or indirectly fix prices".

Further to this, advice from the Office of Fair Trading, (now the Competition and Markets Authority), in "Guidance Agreements and Concerted Practices (December 2004)" stated:

- An agreement whose object it directly or indirectly to fix prices ... of any product or service ... almost inevitably infringes Article [101] and/or the Chapter I prohibition.
- The OFT considers that such price-fixing agreements, by their very nature, restrict competition to an appreciable extent.
- There are many ways in which prices can be fixed. Price fixing may involve ... setting a minimum below which prices are not to be reduced ...

This means that retailers and other operators could be in breach of competition law, as could the local authority itself, for simply discussing the provision of a Minimum Unit Price for alcohol.

Date: 23 September 2014
Our ref: SG/wl
Your ref:
Direct line: (01225) 477562
Fax: (01225) 396142

Mr J Lowman, Ms B Simmonds, Mr R Price and
Mr M Beale
WSTA
c/o British Beer and Pub Association
Brewers' Hall
Aldermanbury Square
London
EC2V 7HR

Dear Mr Lowman, Ms Simmonds, Mr Price and Mr Beale

Local "Voluntary" Bans on higher strength beers and ciders and minimum unit pricing of Alcohol

Thank you for your letter of 28th May addressed to the Chief Executive which has been passed to me for a response. As you are aware B&NES Council are currently consulting on the Licensing Policy for the area. The consultation runs to 30th July 2014. I note your comments and concerns in respect of the consultation question referred to in your letter and I will ensure your comments and points are fed into the consultation as one of the responses.

I respectfully suggest that you have written to the Chief Executive because one of the questions asked in the consultation is:

"Do you think the policy should include adding a condition to a licence around minimum unit pricing, high strength alcohol restrictions and/or irresponsible promotions where the evidence suggests this would be appropriate?"

I think it would be helpful to provide some background as to the reason this question has been asked.

In October 2013 B&NES held a joint scrutiny enquiry day on Alcohol Harm reduction which involved four of our scrutiny panels. Following that enquiry the panel made a number of recommendations which officers and the appropriate cabinet member are obliged to consider. One of these recommendations was:

"The option of including a condition in a license around minimum unit pricing, high strength alcohol restrictions and/or irresponsible promotions where the evidence suggests this would be appropriate."

Officers agreed to include this issue in the consultation on the new Licensing Policy. You can find the full list of recommendations here:

<http://democracy.bathnes.gov.uk/ieDecisionDetails.aspx?id=658>

Thank you again for your input which will be included in the formal consultation responses which are reported to Committee and Council as part of the process leading to adoption of the new policy. I note that you offer to work with officers in tackling our shared objectives around alcohol harm and the Licensing team may well be in contact at a later date. You will be interested to hear that in respect of a number of the initiatives you list, B&NES have already been pro-active in that we have a local CAP, Purple Flag, Pub Watch and Bath Nightwatch and indeed are considering Best Bar None so we are certainly looking to achieve the same outcomes.

Yours sincerely

Mrs S Green
Group Manager
Public Protection & Health Improvement Services

Annex B- B&NES Statement of Licensing Policy

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Foreword/Executive Summary- To be included

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Statement of Licensing Policy

1 Introduction

- 1.1 Bath & North East Somerset Council (the Council), is the Licensing Authority for Bath and North East Somerset under the Licensing Act 2003 (the Act). This means the Council is responsible for granting Premises Licences, Personal Licences, and Club Premises Certificates, in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. It is also responsible for receiving Temporary Event Notices.
- 1.2 The Licensing Authority aims to facilitate the development of a healthier economy in Bath and North East Somerset that feels both safe and offers diverse cultural activities to enable a broad age range of people to enjoy themselves whilst at the same time improving the quality of life of residents and increasing the attractiveness of the area to visitors.
- 1.3 In partnership with other agencies and interested parties, the Council as the Licensing Authority, seeks to develop the area with a view to increasing the number of establishments, including coffee shops, restaurants **and other similar establishments**, which are open and available to the public in the evening.
- 1.4 It is hoped that realisation of this goal will reduce fear of crime, including alcohol related crime and anti-social behaviour, and consequently encourage greater use of facilities throughout the district and in the evening by people of all ages, all income groups and all social groups.
- 1.5 The significant role the city centre plays in Bath's night time economy, has been recognised by the prestigious Purple Flag Award.

Bath & North East Somerset **in collaboration with the Business Community through the Bath Business Improvement District** 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" that recognises safer and more appealing town and city centres at night. The Purple Flag status also provides external recognition for cities that offer a great diversity of entertainment and hospitality to a wide range of age groups. This achievement highlights the effective multi-agency work in place to enhance the night time economy of Bath, and therefore the need to maintain these standards through sustained partnership working in the future. In 2013 the city received the Purple Flag accreditation for the third year running, which was granted in recognition of the outstanding quality and variety of Bath's evening economy.

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- 1.6 The Council has worked in partnership to bring to Bath a modern shopping destination at Southgate, with classic Georgian-style open streets, and public spaces. Southgate Bath has a wide variety of retail stores, eating and entertainment establishments and residential properties.
- 1.7 The Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' that sets out the principles the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and having regard to the Secretary of State's Guidance (the Guidance) issued under s.182 Licensing Act 2003 (the Act).
- 1.8 Licensing is about regulating the use of premises, including qualifying clubs, for licensable activities and temporary events within the terms of the Act.
- 1.9 Any conditions which are attached to the various authorisations will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations on licensed premises. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises.

2 Purpose

- 2.1 The primary purpose of this policy is to assist and inform those involved in the decision making process and those who may be affected by such decisions.
1. This policy will provide the decision makers with parameters under which to make their decisions.
 2. This policy will inform applicants of the parameters under which the Licensing Authority will make decisions, and therefore how a licensed premises is likely to be able to operate within Bath and North East Somerset. Each case will however, be determined on an individual basis.
 3. This policy will inform residents and businesses of the parameters under which the Licensing Authority will make licence decisions, and therefore how their needs will be addressed.
 4. This policy will provide the courts with the basis upon which decisions were reached.
 5. On occasion where particular circumstances justify such a decision, the Licensing Authority may decide to depart from its Statement of Licensing

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Policy when considering an application. The Licensing Authority will on such occasion give reasons for this departure.

The Authority is mindful that when hearing an appeal against any decision made by the Authority, the Magistrates' Court will not take into account anything in this policy that is unlawful, disproportionate or beyond the power of the Licensing Act 2003 (ultra vires).

6. This policy will be regularly reviewed by the Licensing Authority in accordance with the requirements of the Act (at least every 5 years) or as the Authority deems necessary.
- 2.2 This policy aims to set out the Authority's expectation that all persons involved in the licensing process will act with a view to promoting the licensing objectives and all premises whether licensed permanently or on a temporary basis, will operate responsibly and in full compliance of their authorisation.
- 2.3 The Authority is also keen to encourage and support where appropriate, any voluntary initiatives premises may adopt to help reduce alcohol harm within our communities particularly as irresponsible consumption of alcohol is a key factor in fuelling late night anti-social behavior, crime and disorder. Such initiatives may include the removal of cheap, super-strength beers, ciders and lagers from the sale or, the display of alcohol in a manner that will not unduly encourage people to drink irresponsibly. The Authority acknowledges that whilst the majority of people drink responsibly, the "drink until you're drunk" and "binge drinking" culture adopted by a minority is having a detrimental effect on many vulnerable members of our communities and their families. **It also has a detrimental impact on residential communities.**
- 2.4 **When considering any relevant representations to an application for a licence or in respect of a review of a licence, where there is a clear causal link between sales promotions or price discounting and levels of crime and disorder or public nuisance in or near the premises, the Licensing Authority may consider imposing conditions prohibiting irresponsible sales promotions at the relevant premises, but not so as to duplicate the provisions of the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.**
- 2.5 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. Premises are reminded that the mandatory conditions relating to irresponsible drinks promotions must be adhered to. Premises are expected to carefully risk assess such promotions to ensure they do not encourage individuals to drink alcohol excessively or rapidly.

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2.6 The Authority encourages all establishments who sell alcohol to be more vigilant in respect of persons who are purchasing, or maybe attempting to purchase, alcohol on behalf of persons who are already drunk, or who are under age.

3 Licensing Objectives

3.1 Section 4 of the Act provides that it is the duty of all Licensing Authorities to carry out their various licensing functions with a view to promoting the four licensing objectives laid down in the Act. The licensing objectives are:

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

3.2 Each objective is of equal importance.

3.3 These four licensing objectives are to be of paramount consideration at all times. There are no other licensing objectives.

3.4 In the event the Government introduces any further licensing objectives, the Authority will amend this policy accordingly.

3.5 When considering applications/representations the Licensing Authority will have regard to these licensing objectives. Where appropriate the Licensing Authority will make exceptions to its own policies and give reasons for doing so.

3.6 Since the Statement of Licensing Policy was last published the Licensing Authority has been added to the list of "Responsible Authorities" enabling it to make representations supported by evidence, in respect of new and variation applications, and to call for the review of an existing premises licence or club premises certificate. In accordance with the Secretary of State's Guidance, it will not act on behalf of those who are capable of making representations or calling for a review in their own right. Therefore, inferences should not be drawn on such occasion when the Licensing Authority remains silent in respect of new, variation or review applications. **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.**

3.7 The Licensing Authority will ensure there is a clear distinction between those officers submitting a representation or review application, and the officers

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responsible for the administration of the application or review process.

3.8 The Director of Public Health has been added to the list of Responsible Authorities and may now make representations in respect of applications, and call for the review of a premises licences or club premises certificate. Representations will be relevant if they illustrate how the applicant's proposals at the specific premises will undermine at least **one** of the licensing objectives.

3.9 The Licensing Authority recognises that excessive alcohol consumption leads to poor health which, in turn, places burdens on local health services. **The Licensing Authority supports initiatives to reduce the misuse of alcohol for example, supporting Trading Standards colleagues to carry out under-age sales operations.** The negative effects relating to alcohol misuse will be more widely addressed within Bath & North East Somerset's Alcohol Harm Reduction Strategy.

4 Licensable Activities

4.1 The term "Licensable Activities" is defined by the Act. Licensable Activities are:

1. the sale by retail of alcohol;
2. the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
3. the provision of regulated entertainment; and
4. the provision of late night refreshment (i.e. the provision of hot food and/or hot drink between 23:00 hours and 05:00 hours).

4 Types of Authorisations

5.1 This policy will be taken into account by the Licensing Authority when carrying out its licensing functions under the Act in relation to any:

- Premises Licence
- Club Premises Certificate
- Personal Licence
- Temporary Event Notice (TEN)

6 General Principles

6.1 Decisions

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Many minor or routine matters may be determined by the Licensing Officer; other decisions will be referred to the Licensing Committee for determination. These decisions are made in accordance with the table of delegated functions found at page 36 of this Policy.

- 6.2 The Licensing Committee is not a court of law and may seem informal in comparison with such proceedings. For example, the rules of evidence do not normally apply and evidence is not taken on oath. Nevertheless, in determining licensing matters the Committee will follow judicial principles to ensure a fair and orderly hearing is given to each application/representation.
- 6.3 Each case will be considered **on its own merits** and nothing in this Policy shall undermine this principle.
- 6.4 The review of a Premises Licence or a Club Premises Certificate can be requested by a Responsible Authority and any other person subject to conditions as indicated in paragraph 42 (Reviews).
- 6.5 Applicants for Premises Licences and Club Premises Certificates will be expected to set out how they intend to promote the Licensing objectives and what measures they intend to employ to ensure compliance with them.
- 6.6 In order to avoid duplication with other statutory regimes the Licensing Authority will seek to use the most appropriate method of dealing with a particular issue. Subject to the provisions of paragraph 20 (Conditions) the only conditions which should be imposed on a Premises Licence or Club Premises Certificate are those which are necessary, proportionate and reasonable for the promotion of the licensing objectives.
- 6.7 Accordingly if other controls are available because the law already places certain statutory responsibilities on an employer or operator of premises (such as in relation to Health and Safety) it cannot be necessary to impose the same or similar duties on the premises licence holder or club. For example, conditions relating to noise nuisance would not normally be necessary where the provisions of byelaws or of other legislation such as the Environmental Protection Act 1990 protect those living in the vicinity of the premises in question. Where adequate protection is not available conditions subject to the provisions of paragraph 20 may be considered appropriate.
- 6.8 Applicants may suggest, and are encouraged to suggest, appropriate conditions in their operating schedules.
- 6.9 Where the Act provides for mandatory conditions to be included in a Premises

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Licence the Licensing Authority has a duty to include those conditions on the licence.

- 6.10 Subject to paragraph 40 (Relevant Representations) anyone wishing to make representations in respect of an application will be required to relate their objection to one or more of the licensing objectives before the Licensing Authority will be able to consider it.
- 6.11 There is a statutory presumption that an application will be granted unless relevant representations are received.

7 Consultees

- 7.1 Before determining this policy the Licensing Authority has consulted with various stakeholders including, but not limited to:
1. All Responsible Authorities;
 2. Representatives of local holders of Premises Licences and Club Premises Certificates;
 3. Representatives of businesses and residents of the area;
 4. All Ward Councillors and Town and Parish Councils.

Legislation, Policies and Strategies

8 Legislation

- 8.1 In undertaking its licensing function under the Act, the Licensing Authority is also bound by other legislation, including:
1. Section 17 of the Crime and Disorder Act 1988;
 2. Human Rights Act 1998, with particular regard being given to Article 6, Article 8 and Article 1 of the first Protocol;
 3. Equalities Act 2010.
- 8.2 The impact of this policy will be monitored through the Council's equality policies.

9 Relationship with Planning Policies

- 9.1 The Licensing Authority recognises that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary, for the applicant to

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ensure that he/she has all the necessary permissions in place to enable them to run the business within the law.

- 9.2 There will, however, be a clear separation of the Planning and Licensing regimes to avoid duplication and inefficiency. Therefore, any decision made under the Licensing Act will not take into consideration the need for planning permission.
- 9.3 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process as different considerations will apply.
- 9.4 In addition, if an application is granted by the Licensing Authority which involves a material alteration to a building, this would not relieve the applicant of the need to apply for planning permission.

10 Relationship with Building Control

- 10.1 The Licensing Authority recognises Licensing and Building Control are separate regimes. Where an application is granted by the Licensing Authority which involves a material alteration to a building, this would not relieve the applicant of the need to obtain building control approval.

11 Provisional Statements (and the relationship with planning policies and building control).

- 11.1 Further guidance is given below and in paragraph 25 regarding Provisional Statements generally.
- 11.2 In relation to planning and building control it should be noted that any decision of the Licensing Authority on an application for a provisional statement would not relieve an applicant of the need to obtain any necessary planning permission, listed building consent or building control approval before any development takes place.

12 National Strategies

- 12.1 The Licensing Authority will have regard to Government strategies, so far as they impact on the licensing objectives. These will include, but are not limited to:
1. Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
 2. Professional Guidance as to best practice on test purchasing;
 3. Alcohol Harm Reduction Strategy;

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4. Safer Nightlife Guidance.

13 Local Strategies and Policies

- 13.1 Where appropriate, the Licensing Authority will take into account local strategies and policies. These will include, but are not limited to:

1. Sustainable Community Strategy;
2. Community Safety Plan in alignment with the Police Crime Commissioner;
3. B&NES Alcohol Harm Reduction Strategy;
4. Bath's Cumulative Impact Policy;
5. Community Alcohol Partnership.

14 Integrating Strategies

- 14.1 The Licensing Authority will (where appropriate) integrate national and local strategies and encourage vibrant, sustainable communities in line with Bath & North East Somerset's Vision and Priorities.

15 Regulated Entertainment

- 15.1 In its role of implementing Council cultural strategies, the Licensing Authority recognises the need to encourage regulated entertainment such as live music, dance and theatre for the wider cultural benefit of the community.
- 15.2 When considering applications for such activities, and the imposition of conditions on licences, certificates or notices, the Licensing Authority will do what is appropriate and proportionate in the promotion of the licensing objectives.
- 15.3 The Licensing Authority will ensure that only appropriate, proportionate and reasonable licensing conditions are attached to such authorisations.
- 15.4 As a matter of general policy the Council intends to continue to seek Premises Licences from the Licensing Authority for public spaces within the local community, in their own name. This may include village greens, markets, promenades, community halls, parks, Council owned art centres and similar public spaces. In this instance performers and entertainers would require the permission of the Council as the Premises Licence holder rather than a premises licence.
- 15.5 Performances of live music have been further encouraged following the implementation of the Live Music Act in 2012. Amplified live music performed on premises licensed for the sale of alcohol by a premises licence or club premises

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certificate, or performed at any unlicensed “workplace”, is no longer regarded as being “regulated” under the Act, **when** the performance takes place:

- between 08:00 and 23:00 hours; and
- before an audience of no more than 200 people.

- 15.6 The performance of unamplified live music has also been deregulated within these given time limits, although there is no restriction in respect of the size of the audience.
- 15.7 When live music is performed at any licensed premises in accordance with the above criteria, any conditions relating to ‘live’ music as detailed on the premises licence or club premises certificate, will be suspended. However, should the music have a detrimental effect on the licensing objectives, the Licensing Authority may lift the suspension following the review of the premises licence or club premises certificate and the performance of live music will be treated as though it is a regulated activity, allowing for any existing conditions to be reinstated or new conditions to be added.
- 15.8 The provision of background music, whether live or recorded, will not be regarded as being regulated when it is of a level that does not predominate over other activities.
- 15.9 When entertainment is ancillary to a main event, which in itself is not a licensable activity, the entertainment will not be regulated by the Act. An example would be live or recorded musical accompaniment at a fashion show.

16 Cumulative Impact Policy

- 16.1 The concept of Cumulative Impact, although not specifically mentioned in the Act, is found in the Guidance to the Act. It concerns the potential impact a significant number of licensed premises concentrated in one area, may have on the promotion of the licensing objectives. The Guidance acknowledges that this is “a proper matter for a licensing authority to consider in developing its statement of licensing policy”.
- 16.2 Where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder can arise in the vicinity of those premises. The problem can be compounded where a number of licensed premises, grouped together, are situated near residential areas. The distribution of late night premises may be such as to warrant special action by the Licensing Authority to combat exceptional problems of crime and disorder and public nuisance over and above the impact of individual premises.

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Steps Taken in Considering a Cumulative Impact Policy

- 16.3 The steps that this Licensing Authority has taken in considering whether to adopt a cumulative impact policy within the statement of licensing policy are summarised below:
1. Identification of the concern about public nuisance and crime and disorder.
 2. Consideration as to whether there is good evidence that public nuisance and crime and disorder is occurring, and is caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
 3. Identification of the boundaries of the area where problems are occurring.
 4. Consultation with those specified in section 5(3) of the 2003 Act and, subject to the outcome of the consultation,
 5. Inclusion and publication of the details of a cumulative impact policy to be included in the Statement of Licensing Policy.

Evidence of Cumulative Impact

- 16.4 Originally the Bath and North East Somerset Community Safety and Drugs Partnership (CSDP) collated information which demonstrated that, in Bath City Centre, "a defined temporal and geographic area experiences a significantly greater degree of alcohol related crime and disorder than the remainder of the authority area" and that Bath City Centre can be defined as experiencing a significant amount of alcohol related crime.
- 16.5 At the meeting on 18 January 2007 the Council considered the report from the CSDP. After considering the available evidence the Council resolved to consult on the proposed area outlined in Appendix 1 of the CSDP's report. Having consulted with those individuals and organisations listed in section 5(3) of the 2003 Act, the Council resolved, on 13 September 2007, that the evidence contained within the report was sufficient to justify the preparation of a cumulative impact policy for inclusion in the Council's Statement of Licensing Policy. At a meeting on 20 April 2009 the Licensing Committee considered a report on the review of the cumulative impact policy and resolved to continue with the policy. A copy of the reports, together with the Minutes of the meetings, can be seen at any of the Council's libraries, or on the Council's web site at www.bathnes.gov.uk/licensing

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- 16.6 Prior to publishing this revised Statement of Licensing Policy, the Council's Strategy and Performance team re-assessed the evidence in support of the existing Cumulative Impact Policy and found it sufficient to justify including this special policy within the Council's Statement of Licensing Policy. The Licensing Authority will continue to monitor the impact of this cumulative impact policy to assess whether it is still required, or needs to be modified or expanded.
- 16.7 The area identified for the cumulative impact policy is outlined on the map on Page 38 of this document (the Cumulative Impact Policy Area).

The Effect of a Cumulative Impact Policy

- 16.8 The adoption of a cumulative impact policy creates a rebuttable presumption that applications for new premises licences, club premises certificates or variations relating to "on trade" premises situated within the Cumulative Impact Area, will be refused if relevant representations are received. In order to rebut this presumption, applicants must demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.
- 16.9 The Licensing Authority will expect the applicant to address the issues surrounding cumulative impact within their operating schedule. See paragraph 16.17 below for suggested conditions.
- 16.10 This presumption does not relieve Responsible Authorities or any other persons of the need to make a relevant representation. The Licensing Authority may not lawfully consider giving effect to its cumulative impact policy in the absence of relevant representations.
- 16.11 After receiving representations in relation to a new application or a variation of a licence or certificate, the licensing authority will consider whether it would be justified in granting a licence or variation in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics.
- 16.12 The Licensing Authority will consider the individual merits of any application, together with the relevant representations made. Where it considers the application promotes the licensing objectives and would be unlikely to add

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significantly to the cumulative impact, the Licensing Authority will grant the application.

- 16.13 If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of at least one of the licensing objectives, and that the imposition of conditions would be ineffective in preventing the problems involved.
- 16.14 If there are no representations, the Licensing Authority must grant the application as applied for, in terms consistent with the operating schedule.
- 16.15 Where an application for a review is received by the Licensing Authority, the cumulative impact policy will not be used as a ground for revoking an existing licence or certificate. A review must relate to individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.

Suggested additions to operating schedules

- 16.17 If an application for a licence is made for a premises within the defined area of the cumulative impact policy the Licensing Authority will expect the applicant to demonstrate, in their operating schedule, the steps that they will take to prevent problems relating to nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder.
- 16.18 The measures the Licensing Authority would wish to be included on a premises licence application within the cumulative impact area **will depend on the nature and type of the premises**. The measures would need to be individual to that premises. Examples are:
1. CCTV at the premises to be properly maintained.
 2. Security Industry Authority (SIA) door staff.
 3. Toughened or plastic glass, no bottles.
 4. Free calls to taxi firms for departing customers at the end of the night.
 5. Outside areas to be cleared at a reasonable time (time to be stated).
 6. Signs to be displayed at each exit to encourage patrons to minimise noise and not to congregate in the street at close.
 7. To be a member of the local Pubwatch/Nightwatch (or any other similar scheme).
 8. No open containers of alcohol to leave the premises.
 9. To supervise entry and exit of the customers from the premises at busy times.
 10. Facilities for people to dispose of cigarette ends and provisions for reducing noise from people smoking outside the premises.
 11. A limit on the number of customers permitted on the premises at one time.

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12. A requirement that the public spaces in the premises should be predominately seated.

This list is not exhaustive, and is only intended to provide a brief description and guide to applicants.

- 16.19 The Bath Nightwatch scheme is the result of the Bath Business Improvement District (BID) team, Bath & North East Somerset Council, Bath Pubwatch group and the Police, working together as one co-ordinated stakeholder to promote the four licensing objectives and improve issues of alcohol-associated anti-social behaviour in and around the city centre.
- 16.20 The Licensing Authority will expect all licensed premises within the Cumulative Impact Area to take a socially responsible approach to selling alcohol and to managing their premises effectively by participating in schemes like 'Bath Nightwatch' or similar.
- 16.21 The Licensing Authority also encourages all premises outside the Cumulative Impact Area, to take a similar approach to improve the issue of alcohol-associated anti-social behaviour outside the city centre at night.

17 Control of anti-social behaviour, crime and disorder away from licensed premises.

- 17.1 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 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 will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.
- 17.2 The licensing authority will encourage the use of other mechanisms for controlling problems caused by customers behaving badly and unlawfully once away from licensed premises. For example:
1. Planning controls.
 2. Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
 3. The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
 4. Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices for relevant

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offences.

5. The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
6. The confiscation of alcohol from adults and children in designated areas.
7. Police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
8. The power of the police, other responsible authorities or any other person to seek a review of the licence or certificate in question.

17.3 The Licensing Authority will endeavour to work in partnership with others to promote common objectives.

Administration of Licensing Functions

18 Applications

- 18.1 Incomplete applications will not be accepted. Applications will only be considered where the relevant documentation and the fee accompany them.
- 18.2 The operating schedule will form part of the completed application form for a Premises Licence and Club Premises Certificate. It should include information which is necessary to enable any Responsible Authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 18.3 In preparing an operating schedule, the Secretary of State recommends that applicants should be aware of the expectations of the Licensing Authority and the Responsible Authorities about the steps that are necessary for the promotion of the licensing objectives.
- 18.4 Liaising with interested parties prior to submitting applications is good practice. The Licensing Authority recommends applicants discuss any new proposals with neighbours or any relevant community group such as a local residents' association, or where the application is in Bath city centre, Pubwatch or other such groups as may be appropriate.
- 18.5 The Licensing Authority actively encourages applicants to liaise with relevant Responsible Authorities such as the Police or Fire Service prior to submitting an application. This will allow the applicant to address any concerns raised within

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the operating schedule.

19 Licensing Hours

- 19.1 With regard to licensing hours the Licensing Authority will consider each case on its individual merits.
- 19.2 The Licensing Authority recognises that fixed closing times in certain areas 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. Longer licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.
- 19.3 The Licensing Authority will give due regard to the Guidance in relation to terminal hours and would not wish to inhibit the development of safe evening and night-time local economies.
- 19.4 It is not intended that the Licensing Authority's overall approach to licensing hours will include any form of zoning. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later, and puts greater pressure on communities than is necessary.
- 19.5 However, if presented with evidence of **serious alcohol related crime, disorder or anti-social behaviour** within a specific area, which cannot be attributed to one specific premises, the Licensing Authority may consider making an Early Morning Restriction Order (EMRO) to further the licensing objectives.
- 19.6 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, where relevant representations are substantiated in respect of individual shops, a limitation on licensing hours may be appropriate.

20 Conditions

- 20.1 The Licensing Authority **may not** impose conditions on, or refuse to grant/vary a Premises Licence or Club Premises Certificate **unless** it has received a relevant representation in respect of the application.
- 20.2 If no relevant representations are received, the application **must** be granted on

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the terms sought, i.e. consistent with the operating schedule submitted, and subject to the mandatory conditions specific to the type of authorisation applied for. No additional conditions may be imposed.

- 20.3 Conditions may only be imposed on licences and certificates where they are appropriate for the promotion of one or more of the four licensing objectives. Conditions may not be imposed on licences and certificates for any other purpose.
- 20.4 One of the key concepts of the Act is for conditions to be tailored to the individual style and characteristics of the premises. The Licensing Authority acknowledges this concept of “bespoke” licensing and will only impose conditions that are both proportionate and appropriate to the business, organisation, or individual premises concerned. There will be no standard conditions.

21 Enforcement

- 21.1 Enforcement will be in accordance with the Public Protection and Health Improvement Service Enforcement Policy, which is based around the principles of consistency, transparency and proportionality, as set out in the Government’s Enforcement Concordat.
- 21.2 The Enforcement Policy (available on request) proposes that a graduated response is taken where offences against legislation are found, or where licence conditions have been contravened. An isolated administrative offence such as failing to maintain records may be dealt with purely by way of a written warning. More serious offences which have either been committed over a period of time, or which jeopardise public safety, may result in the issue of a Formal Caution, or a referral for prosecution.
- 21.3 The Licensing Authority will seek to work actively with the Police in enforcing licensing legislation. The Licensing Authority expects the Police to share information about licence holders and licensed premises, under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Licensing Authority when any enforcement action may be required.
- 21.4 The Licensing Authority will employ officers to investigate allegations of unlicensed activities and to ensure all conditions are fully complied with.

22 Drugs

- 22.1 The Licensing Authority recognises that as more licensed premises host the types of events at which people are likely to take drugs, it is imperative to

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ensure the safety of all those attending such events.

- 22.2 Where appropriate, the Licensing Authority recommends applicants should have regard to “Safer Nightlife”, an updated version of the “Safer Clubbing” guide published by the Home Office in 2002. It provides clear, comprehensive advice on key issues such as preventing drugs being brought on to licensed premises, minimising the risk associated with drug taking and how to structure a drugs policy.
- 22.3 Where appropriate, applicants for Premises Licences or Club Premises Certificates should be able to demonstrate that they have had regard to the “Safer Nightlife” Guide in preparing operating schedules. Although the implementation of a drugs policy is not a legal requirement, it demonstrates a commitment to safeguarding the welfare of both customers and staff.

23 Operating Schedules

- 23.1 Applicants for Premises Licences, Provisional Statements and Club Premises Certificates should be aware of the guidance issued by the Licensing Authority in relation to Operating Schedules when submitting their applications.
- 23.2 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training, and supervision of staff and the adoption of **best practice** to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority **recommends** that these elements should be specifically considered and addressed within an applicant’s Operating Schedule.
- 23.3 The selection of control measures should be based upon a risk assessment of the premises, plus the events, activities and customers expected to attend (e.g. their age, number etc.). Whilst the Licensing Authority cannot require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the management of the premises.
- 23.4 The Operating Schedule should be prepared by, or on behalf of, the applicant, in relation to the premises for which a licence is being sought, taking into account the individual style and characteristics of the premises/events.
- 23.5 The Operating Schedule should include the following:
- a. Details of the relevant licensable activities to be conducted on the premises;

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- b. The times during which it is proposed that the relevant licensable activities are to take place (including any specific non-standard timings or seasonal variations);
 - c. Any other times when the premises are to be open to the public;
 - d. Where the licence is required only for a limited period, that period;
 - e. Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises, or both;
 - f. The steps which the applicant proposes to take to promote the licensing objectives such as the provision of street marshals etc.;
 - g. Any other prescribed matters.
- 23.6 The Guidance produced by the Secretary of State under Section 182 of the Act recommends that applicants should be aware of the expectations of the Licensing Authority regarding the steps that are necessary for the promotion of the licensing objectives. Any measures proposed by the applicant should be both realistic and within the control of the applicant/management of the premises.
- 24 Premises Licences**
- 24.1 A Premises Licence will be required for the use of any premises, part of premises, or place for the following licensable activities:
- a. the sale of alcohol;
 - b. the provision of regulated entertainment;
 - c. the provision of late night refreshment.
- 24.2 When making an application to the Licensing Authority, the applicant must also send copies of the application to all the Responsible Authorities, namely:
- a. Chief Officer of the Police
 - b. Fire & Rescue Service
 - c. Trading Standards
 - d. Local Safeguarding Children's Board
 - e. Environmental Health Department
 - f. Local Planning Authority
 - g. Director of Public Health

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and where relevant:

- h. Health and Safety Executive (e.g. for educational establishments)
- i. Maritime Agency (e.g. for boats)

The Licensing Authority is a Responsible Authority in its own right, but there is no requirement for applicants to submit anything more than the original application to the Authority.

- 24.3 In the case of electronic applications, the requirement to send copies to the relevant Responsible Authorities will pass from the applicant to the Licensing Authority.

25 Provisional Statements

- 25.1 Where premises are being, or are to be, constructed for the purpose of being used for one or more licensable activities, or are being, or about to be, extended, or otherwise altered for that purpose, a person may apply for a Provisional Statement if they have an interest in the premises, and, if they are an individual, that they are aged 18 years or older.
- 25.2 An application for a Provisional Statement must be accompanied by a schedule of works that includes details of the licensable activities for which the premises will be used, a plan of the premises; and such other information as may be prescribed.
- 25.3 Applications for Provisional Statements will be dealt with in a similar manner as applications for a Premises Licence. See also paragraph 23 relating to Operating Schedules.
- 25.4 Where relevant representations are made in relation to an application for a Provisional Statement the Licensing Authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a Premises Licence was sought for those premises, it would consider it necessary for the promotion of the licensing objectives to attach conditions (subject to the provisions of paragraph 20), rule out any of the licensable activities applied for, or to reject the application.

26 Club Premises Certificates

- 26.1 Club Premises Certificates will be issued to qualifying Clubs as defined in the Act, which carry out the following recognised activities:
- a. the supply of alcohol by, or on behalf, of the Club to, or to the order of, a

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member of the Club;

- b. the sale by retail of alcohol by, or on behalf of, a Club to a guest, or a member of the Club, for consumption on the premises where the sale takes place; and
- c. the provision of regulated entertainment, where that provision is by, or on behalf of, a Club for members of the Club, or for members of the Club and their guests.

26.2 Besides making an application to the Licensing Authority, the applicant must also send copies of the application to all the responsible authorities, namely:

- a. Chief Officer of the Police
- b. Fire & Rescue Service
- c. Trading Standards
- d. Local Safeguarding Children's Board
- e. Environmental Health Department
- f. Local Planning Authority
- g. Director of Public Health

and where relevant:

- h. Health and Safety Executive (e.g. for educational establishments)
- i. Maritime Agency (e.g. for boats)

The Licensing Authority is a Responsible Authority in its own right, but there is no requirement for applicants to submit anything more than the original application to the Authority.

26.3 In the case of electronic applications the requirement to send copies to the responsible authorities will pass to the Licensing Authority.

26.4 A Club Operating Schedule should also be submitted with the application, together with a copy of the club rules. See also paragraph 23 above relating to Operating Schedules.

27 Variation of Premises Licence or Club Premises Certificate

27.1 Applications to vary a Premises Licence or Club Premises Certificate will be dealt with in a similar manner to applications for a new Premises Licence or Club Premises Certificate. When the Licensing Authority receives an application for a variation of these authorisations, it must determine whether the application has been properly made. Among other things the Licensing

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Authority will consider whether the application has been properly advertised.

- 27.2 Where an application has been lawfully made and provided that no relevant representation has been made by any responsible authority or other person then no hearing will be required and the application will be granted in the terms sought, subject only to conditions which are consistent with the Operating Schedule and any mandatory conditions required.
- 27.3 The Licensing Authority must consider whether any representations received are relevant. A "relevant" representation must focus only on the "change" proposed in the variation application and how this change is likely to have a detrimental effect on at least one of the licensing objectives. If relevant representations are made and not withdrawn, the Licensing Authority will hold a hearing, and at that hearing the Licensing Authority may:
- a. modify the conditions of the Licence; or
 - b. reject the whole, or part of the application; or
 - c. grant the application as applied for
- 27.4 If the Licensing Authority considers that the representations are not relevant then a hearing will not be required and the application will be granted in the form it was applied for. The aggrieved party may challenge the Licensing Authority's decision by way of judicial review.
- 27.5 The exception to the above procedure concerns applications for minor variations, whereby the proposed variation generally amounts to:
- a. a minor change to the structure or layout of a premises;
 - b. small adjustments to licensing hours;
 - c. the removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions;
 - d. the addition of certain licensable activities which will not impact adversely on the licensing objectives, are subject to a simplified 'minor variations' process. Parties may still make representations and the Licensing Authority is entitled to seek the views of any of the responsible authorities when determining such applications. There is no right to a hearing as officers have delegated powers to determine applications under this process.

28 Personal Licences

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- 28.1 General Requirements - Personal Licences will be granted if the applicant can demonstrate each of the following:
- a. they are 18 years of age or over;
 - b. they possess an appropriate licensing qualification, or are a person of a prescribed description; i.e. a person of a description prescribed by Secretary of State by regulations;
 - c. no Personal Licence held by the applicant has been forfeited in the period of five years ending with the day the application was made;
 - d. the applicant has not been convicted of any relevant offence, or any relevant foreign offence.
- 28.2 **The Authority will reject any application where points a, b or c above are not met.**
- 28.3 Applicants with unspent criminal convictions for relevant offences set out in Regulations made under the Act are encouraged to first discuss their intended application with the Council's Licensing Officers and/or Police Licensing Officers before making an application. Guidance in relation to unspent criminal convictions can be found in the Licensing Authority's Guidance Notes for Applicants.
- 29 Designated Premises Supervisors**
- 29.1 The sale of alcohol carries with it greater responsibility than that associated with the provision of entertainment and late night refreshment as it has a wider impact on the community. Therefore the main purpose of having a Designated Premises Supervisor (DPS) nominated on the premises licence is to ensure there is a specified individual who can be readily identified at the premises. The DPS therefore will occupy a pivotal role in terms of management and supervision of the premises, and may be given day to day responsibility for running the premises. All sales of alcohol made under the authorisation of a premises licence, must be authorised by the person nominated as the DPS on the premises licence.
- 29.2 The DPS may nominate other personnel in his/her place as having authority to make sales of alcohol provided that authority is in writing thereby giving a meaningful and proper authorisation.
- 29.3 A joint interview between the Licensing Authority, Police and applicant may be arranged where the Police are minded to object to the variation of a DPS on the

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grounds that such a variation may undermine the Prevention of Crime and Disorder objective.

- 29.4 The exception to the above is to allow certain community premises which have, or are applying for a premises licence, that authorise the sale of alcohol, to apply the alternative licence condition instead of the usual mandatory conditions. The effect of the alternative licence condition is that the licence holder, i.e. the management committee which runs the community premises, is responsible for the supervision and authorisation of all alcohol sales.

30 Temporary Event Notices

- 30.1 Temporary Event Notices do not involve the Licensing Authority in giving permission for the event to take place. This is a notification procedure in which only the Police and Environmental Protection may intervene to prevent such an event, or to modify the arrangements for such an event. The Licensing Authority will only intervene if the limits on the number of notices given are exceeded.
- 30.2 A "Standard" TEN requires an organiser of a temporary event to give the Licensing Authority a minimum of 10 clear working days' notice.
- 30.3 A "Late" TEN is a TEN received by the Licensing Authority 5–9 clear working days prior to the day of the event.
- 30.4 "Clear working days" means working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given. A "working day" is defined as any day other than a Saturday, Sunday, Christmas Day, Good Friday, or a day which constitutes a Bank Holiday under the Banking and Financial Dealings Act 1971 in England and Wales.
- 30.5 If an objection is received to a "Late" TEN then the Licensing Authority must issue a counter notice at least 24 hours prior to the event. The premises user has no right to a hearing in relation to a contentious "Late" TEN and as such any licensable activities proposed at the event, will be unauthorised, and it will be an offence to carry on any such activities. Likewise, any notice received within less than 5 clear working days' notice will be invalid.
- 30.6 It is therefore obvious that by submitting a "Late" TEN the organiser runs the risk of receiving a counter notice and not being able to hold the event. Although legally the Licensing Authority must receive "Late" TENs, it recommends a minimum notice period of one calendar month before the date of the event taking place.

31 Transfer of Premises Licences

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- 31.1 In the vast majority of cases it is expected that a transfer will be a very simple administrative process. This is to ensure that there should be no interruption to normal business at the premises.
- 31.2 Notice of the application must be given to the Police. If the Police raise no objection about the application the Licensing Authority will transfer the licence in accordance with the application, amend the licence and return it to the new holder.
- 31.3 In exceptional circumstances the Police may consider that the granting of the application would undermine the crime prevention objective. In these circumstances the Licensing Authority must hold a hearing and consider the objection, they will not be able to consider any other matters. The Committee will give reasons for the decision made.

32 Interim Authority Notices

- 32.1 Generally a licence will remain in force for as long as the licence holder continues to operate the business, unless it is revoked, or it is specified that it has effect for a limited period and that period expires. However, if the holder of a Premises Licence dies, becomes mentally incapable or becomes insolvent, then the licence will lapse.
- 32.2 The licence may be reinstated for a three month period if within 28 days of such circumstances, a person who had an interest in the premises concerned, or is connected to the person who held the Premises Licence immediately before it lapsed, gives the Licensing Authority an Interim Authority Notice.
- 32.3 At the end of the three months it will lapse unless an application for a transfer of premises licence holder is made.
- 32.4 A person is connected to the former holder of a Premises Licence if, and only if:
- a. the person is the personal representative in the event of the holder's death;
 - b. in respect of someone who has become mentally incapable, the person is acting under section 6 of the Enduring Powers of Attorney Act 1985; or
 - c. in the event of insolvency, the person is acting as an Insolvency Practitioner.
- 32.5 Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of crime objective, the Licensing Authority will arrange a hearing to

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consider the Notice.

Licensing Objectives

33 The Prevention of Crime and Disorder

- 33.1 Under Section 17 of the Crime and Disorder Act 1998, the Council has a duty to do all that it reasonably can to prevent crime and disorder in the area. The fear of crime created by disorder, including drunkenness, is as damaging to public confidence and the quality of life as crime itself. The Council's Community Safety Plan in alignment with the Police Crime Commissioner aims to reduce crime, disorder, nuisance and the fear of crime, making Bath and North East Somerset a safer place to live, work and visit.
- 33.2 The Council has introduced measures to assist in the management of this, including the provision of Bath Nightwatch, BID Marshals and Taxi Rank Marshals and the installation of CCTV cameras. Joint working with the Police is ongoing, and the Council would expect this partnership approach to be embraced by the licensing trade. This would include participation in the Bath Nightwatch scheme that includes a radio system between licensed premises which links with the CCTV, the Police, Street & Taxi Marshals/FAST ambulance and the Street Pastors.
- 33.3 The Licensing Authority will consider whether the grant of an application will result in an increase in crime and disorder.
- 33.4 Applicants are encouraged to consider crime prevention procedures in their premises before making a formal application. Applicants are encouraged to work in partnership with other licence holders in order to reduce crime and disorder in their area.
- 33.5 The Licensing Authority will continue to play an active part in the development of Pubwatch/Nightwatch and other such schemes.
- 33.6 The Licensing Authority recognises that no matter how well managed the premises are, crime and disorder can occur, particularly outside the premises. Therefore in considering whether the crime and disorder objective is met, the Licensing Authority will normally take into account the criteria set out below.
- 33.7 In considering licence applications, the following will be taken into account:
1. Whether the design, layout, lighting and fittings of the premises have been considered with a view to restricting conflict and minimising opportunities

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for crime and disorder.

2. Whether the applicant has included in the Operating Schedule appropriate management measures to prevent/reduce crime and disorder.
 3. Training given to staff in crime prevention measures appropriate to those premises.
 4. Physical security features installed in the premises. This may include matters such as the position of cash registers; where alcohol is stored in 'off-licences', or the standard of CCTV installed, and the use of toughened drinking glasses in pubs and clubs.
 5. The likely exit times from the premises and the demands upon and the capacity of public transport at those times.
 6. Any other such measures as may be appropriate, such as participation in Nightwatch/Pubwatch or other such schemes, 'music wind-down policies', restrictions on 'happy hours' and the availability of seating to discourage vertical drinking.
 7. The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies.
 8. Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.
 9. The likelihood of any violence, public order or policing problems if the licence is granted.
 10. The applicant's willingness to work in partnership with neighbouring licence holders in order to reduce crime and disorder.
 11. The policy on cumulative impact.
- 33.8 The Licensing Authority would also recommend that all Designated Premises Supervisors undergo additional training and have experience commensurate with the nature and style of entertainment provided and capacity of the premises.

34 Public Safety

- 34.1 The Licensing Authority has established protocols with the local Police on enforcement issues to enable a more efficient deployment of Licensing

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Authority staff and police officers who are engaged in enforcing licensing law and the inspection of licensed premises.

- 34.2 This protocol also provides for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run.
- 34.3 Inspections are not undertaken routinely, but only when they are judged necessary. This ensures that resources are more effectively concentrated on problem premises. The Act enables the Licensing Authority through its officers to exercise discretion in relation to inspections and does not require annual inspections to take place. The Licensing Authority therefore, does not intend to carry out annual inspections unless the assessed risks make such inspections necessary.
- 34.4 From time to time premises are inspected by Council Officers, the Police and/or the Fire Service for purposes of ascertaining compliance with the Act or associated Legislation or Regulations.
- 34.5 During the application period the Responsible Authorities might decide to carry out their own inspections.
- 34.6 Crime, disorder and anti-social behaviour threaten public safety and affect perceptions of public safety. The Licensing Authority must try to ensure the safety of people visiting and working in licensed premises. The Licensing Authority will need to satisfy itself that measures to protect the public including setting safe capacities, adequate means of escape, and the provision of fire fighting equipment and CCTV etc. are put in place and maintained if this is not adequately provided for by other regulatory regimes.
- 34.7 Licensed premises present a mixture of Health and Safety risks, some of which are common to many premises, and others unique to single premises. It is essential that premises are constructed, or adapted, so as to safeguard occupants against such risks.
- 34.8 Where relevant representations are made in relation to imposing a maximum number of persons resorting to premises at any one time for example, to ensure the safety of persons in the premises, and safe escape in the case of an emergency, the Licensing Authority will consider the imposition of occupancy limits by way of condition where it is considered necessary in relation to the promotion of one or more of the licensing objectives.

35 Prevention of Public Nuisance

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- 35.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.
- 35.2 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority intends to maintain and protect the amenity of residents and other businesses from the potential adverse consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 35.3 In considering an application for a Premises Licence or Club Premises Certificate, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to the circumstances of the application.
- 35.4 The Licensing Authority will consider in particular:
1. The proximity of noise sensitive residential and commercial premises, the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
 2. The steps to be taken or proposed to be taken by the applicant to prevent litter and smell nuisance from the premises.
 3. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.
 4. The steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable, then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction.
 5. Whether there is sufficient provision of public transport (including taxis and private hire vehicles) for patrons.
 6. The installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship.
 7. The use of gardens and other open-air areas.

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8. The position or proposed position of external lighting, including security lighting that is installed inappropriately.
9. Whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity.
10. The steps taken or proposed by the applicant with particular regard to the recycling of glasses, bottles and cans from their premises.

~~35.5 In certain areas the increased concentration of entertainment uses and longer hours may affect local residents. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.~~

35.6 The role of the Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of the residents. The Licensing Authority will need to satisfy itself that adequate measures are in place to prevent public nuisance.

36 Protection of Children from Harm

36.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.

36.2 It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

36.3 Whilst the Act allows children access to licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm.

36.4 The general relaxation in the Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

36.5 The Licensing Authority recognises the Local Safeguarding Children's Board as the Responsible Authority to advise it on matters relating to the protection of children from harm.

36.6 The Licensing Authority will judge the merits of each application before deciding

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whether to impose conditions limiting the access of children to individual premises.

36.7 The following are examples of premises that will raise concern:

1. Where entertainment or services of an adult or sexual nature are commonly provided.
2. Where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or with a reputation for underage drinking.
3. Where there is a known association with drug taking or dealing.
4. Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines).
5. Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
6. Venues which are running 'under-18' events allowing entry to intoxicated young people.

36.8 The Licensing Authority may consider limiting the access of children where it is necessary for the prevention of harm to children. The following conditions may be considered appropriate:

1. Limitations on the hours when children may be present.
2. The exclusion of children under certain ages when particular activities are taking place.
3. Limitations on the parts of premises to which children might be given access.
4. Requirements for an accompanying adult.
5. Full exclusion of people under 18 from the premises or parts of the premises when any licensable activities are taking place.

36.9 No conditions will be imposed requiring that children be admitted to any premises and where no limitation is imposed this will be left to the discretion of the individual licence holder.

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- 36.10 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the Police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 36.11 The Licensing Authority recommends that where appropriate, applicants familiarise themselves with the DrinkAware and Portman Group Codes of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The codes seek to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older.
- 36.12 Films cover a vast range of subjects, some of which deal with adult themes and/or contain for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 36.13 The Licensing Authority will expect licence holders or clubs to include in their Operating Schedules arrangements for restricting children from viewing age-restricted films classified according to recommendations of the British Board of Film Classification (or the Licensing Authority itself) to satisfactorily address safety issues including the supervision of children.
- 36.14 The Act also provides that it is mandatory for a condition to be included in all Premises Licences and Club Premises Certificates authorising the exhibition of films for the admission of children to the exhibition to be restricted in accordance with the recommendation given either by the British Board of Film Classification or the Licensing Authority.
- 36.15 Many children go to see and/or take part in an entertainment arranged especially for them, for example, children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.
- 36.16 The Licensing Authority will expect the Operating Schedule to satisfactorily address safety issues including the supervision of children.

Complaints About Licensed Premises

37 How Complaints Will Be Dealt With

- 37.1 The Licensing Authority will investigate **all** complaints against licensed premises with regard to matters relating to the four licensing objectives. If possible in the first instance, the complaint should be raised directly with the licence holder or

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business concerned to seek a local resolution. If this is not possible then residents can contact their local Resident's Association to act on their behalf or contact the Licensing Team directly.

37.2 Where a local resident or residents' association have made for example:

- relevant representations about licensed premises, or
- a valid application for a premises licence or club premises certificate to be reviewed.

the Licensing Authority encourages parties to arrange a conciliation meeting to address and clarify the issues of concern where practicable.

37.3 Nothing in this Policy shall restrict the right of a Responsible Authority or any other person to call for a review of a licence or club premises certificate, or make relevant representations in accordance with the Act.

How to make a complaint or contribute to a review

37.4 Any person wishing to make a complaint about a licensed premises can contact the Licensing Team in the following ways:

By email: Licensing@bathnes.gov.uk

Via the website: www.bathnes.gov.uk/forms/licensed-premises-complaint-form

By telephone: 01225 477531

In person at any of the Council's One Stop Shops

37.5 Information about submitting a representation can be found on the Council's website at:

<http://www.bathnes.gov.uk/services/business/licences/alcohol-and-entertainment/representations>

Decision Making

38 Licensing Committee Terms of Reference

38.1 The Committee's terms of reference will be set out in the Council's Constitution. The terms of reference have been guided by Regulations issued under the Act.

39 Allocation of Decision making Responsibilities

39.1 These responsibilities will be set out in the Council's Constitution. The table on

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page 36 indicates how the delegation of functions has been allocated

40 Relevant Representations

- 40.1 Representations should be made in writing and received by the Authority within the 28 day period commencing the day after the application/review was served on the Authority. The Authority may not exercise any discretion in respect of late representations.
- 40.2 Relevant representations will illustrate the likely effect the proposals within the application will have on the promotion of at least one of the licensing objectives.
- 40.3 Representations may take the form of an objection, or be positive, and express support of the application.
- 40.4 A representation will not be relevant if the case officer deems it to be frivolous or vexatious.
- 40.5 Representations made by any Responsible Authority or other person which are subsequently withdrawn, will not be regarded as "relevant".
- 40.6 'Responsible Authority' means any of the following:
- a. Police
 - b. Fire & Rescue Service
 - c. Trading Standards
 - d. Local Safeguarding Children's Board
 - e. Environmental Health Department
 - f. Local Planning Authority
 - g. Health & Safety Executive (if premises is a school/college)
 - h. Maritime Agency (if premises is a "vessel")
 - i. Director of Public Health
 - j. The Licensing Authority
 - k. Any other Authority as may be prescribed by Regulations.
- 40.7 Once the Authority is in receipt of a relevant representation, it may no longer grant the application in the form in which it was applied for; instead the matter must proceed to hearing to be determined before the Licensing Sub Committee. With this in mind, the Authority would recommend all applicants allowing two months for an application to be processed.

41 Other Considerations

- 41.1 The Licensing Authority will give reasons for its decisions. The Licensing

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Authority will also address the extent to which the decision has been made with regard to the Act, its Statement of Licensing Policy, the Guidance issued by the Secretary of State under the Act and the Human Rights Act 1998.

42 Reviews

- 42.1 The process for reviewing premises licences and club premises certificates is seen as representing a key protection for the community where problems associated with any of the four licensing objectives are occurring. Licensing Authorities are encouraged to apply a 'light touch' to the grant and variation of premises licences and club premises certificates. The provision of the review mechanism to deal with concerns relating to the licensing objectives arising later in respect of individual premises is integral to this.
- 42.2 At any stage following the grant of a premises licence or club premises certificate, a Responsible Authority or other person may apply to the Licensing Authority to review a licence because of a matter arising at the premises in connection with one or more of the four licensing objectives. Any application for review must be in writing. Copies of the application must be simultaneously served on the premises licence holder and the relevant Responsible Authorities.
- 42.3 Additionally a review of the licence will normally follow any action by the Police to close the premises on grounds of disorder or public nuisance.
- 42.4 The application must relate to a specific premises for which a premises licence or club premises certificate has effect. The grounds for review must be relevant to one or more of the licensing objectives.
- 42.5 Sufficient information or evidence should be contained within the application to enable the holder of the premises licence or club premises certificate or any representative of the holder of a premises licence or club premises certificate to prepare a response.
- 42.6 Where the application for a review is received the Licensing Authority must firstly consider whether it is relevant. Any applications found to be irrelevant, vexatious or frivolous will be rejected and the review applicant advised of the reason(s) for the rejection.
- 42.7 Where a relevant application is received the Licensing Authority will advertise the application and hold a hearing to determine the review application.
- 42.8 The Licensing Act 2003 provides the Licensing Authority with a range of powers on determining a review that it may exercise where it considered necessary for the promotion of one or more of the licensing objectives.

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42.9 The Licensing Authority would strongly urge anyone who is suffering adverse effects due to the way in which a licensed premises is operating, to talk to the Licensing Team. Officers can give free impartial advice on how to complete the necessary forms, and talk those affected through the review process.

43 Appeals

43.1 New and variation applications once determined will take immediate effect. There will however follow a 21 day appeal period during which any party to the hearing may appeal the decision to Bath Magistrates' Court.

43.2 Once an application for the Review of a premises licence or club premises certificate has been determined, it will not take effect until the 21 day appeal period had lapsed or if appealed, once the appeal has been dispensed with.

43.3 An appeal against the grant or refusal of a personal licence application must be made to the Magistrates' Court.

43.4 Schedule 5 to the Licensing Act 2003 sets out entitlement to appeal.

Fees

44 Fees

The Authority is aware that the Government is considering moving from nationally set Licensing Act fees to locally set fees. The situation will be monitored and where appropriate procedures will be adopted to ensure that fees are set based on cost recovery.

Late Night Levy

45 Late Night Levy

This is a power conferred on Licensing Authorities by the Police Reform and Social Responsibility Act 2011 which enables a levy to be charged persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy. The option of introducing such a levy will be kept under review by the Council.

Annex B- B&NES Statement of Licensing Policy

Table of Delegations of Licensing Functions

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB COMMITTEE	OFFICERS
Approval of Policy and annual review	All cases		
Application for Personal Licence		If a police objection is made	If no objection made
Application for Personal Licence, with unspent convictions		If a police objection is made	If no objection made
Application for Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application for Provisional Statement		If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary Designated Premises Supervisor		If a police objection is made	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a police objection is made	All other cases
Application for interim authorities		If a police objection is made	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint 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 Minor Variation applications for premises licences and for club premises certificates.			All cases
Determination of the removal of a Designated Premises Supervisor or Personal Licence Holder at community premises.		If a relevant representation is made.	All other cases
Applications for the classification of unclassified films.		All cases	

Annex B- B&NES Statement of Licensing Policy

Further Information

Further information about the Act and this Statement of Licensing Policy can be obtained from:

Licensing Team
Bath & North East Somerset Council
Lewis House
BATH BA1 1JG

Tel: 01225 477531
Fax: 01225 477596
Email: licensing@bathnes.gov.uk
Website: www.bathnes.gov.uk

The Guidance issued under Section 182 of the Act can also be viewed on this site.

Information in relation to large events is available from the Council's Event Safety Co-ordinator:

Public Protection and Health Improvement
Bath & North East Somerset Council
Lewis House
BATH BA1 1JG

Tel: 01225 477563
Fax: 01225 477596
Email: Public_Protection@bathnes.gov.uk
Website: www.bathnes.gov.uk

The Licensing Act 2003 can be viewed online at:

www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en

Annex B- Code of Best Practice for Licensed Premises

The purpose of this Code is to assist applicants and those responsible for managing licensed premises to operate in a safe and responsible manner.

Our aim in publishing this Code of Best Practice, is to build on the good relationships we have already established with the trade and partnership agencies to encourage communication, information sharing and partnership working.

The Code is not statutory guidance but a guide to encourage Best Practice throughout the Authority Area. The four licensing objectives that underpin the framework of the licensing legislation however, should be of paramount consideration at all times.

It's good to talk!

Members of the Licensing Team are here to discuss your licensing needs, as well as all the options available to you. We actively encourage event organisers and applicants to engage in pre-application discussions with any relevant Responsible Authorities or Residents' Associations.

The responsibility for operating a premise in a safe, responsible and compliant manner need not rest with one person. It is sensible that all persons involved in the day to day operation of the premises such as bar staff, door staff and managers, work together to achieve full compliance in respect of their particular authorisation. Team meetings therefore provide an excellent opportunity to remind colleagues of the mandatory conditions and those attached specifically to your licence or certificate.

You may find it of mutual benefit to hold regular meetings with your local residents' associations. During such sessions you could discuss any future plans you may have in respect of your premises, and in turn listen to their concerns.

The Authority acknowledges that one size doesn't fit all and that the individual style and characteristics of the premises will dictate what measures are considered appropriate and necessary for your business or client.

PREVENTION OF CRIME & DISORDER

Don't be afraid to say "No!"

- In times of austerity it is difficult to turn away custom, however you have the right to refuse admission to undesirable patrons and have a legal obligation to refuse to supply alcohol to anyone who is drunk or underage, or to any person who is buying alcohol for someone who is drunk or under age.
- In respect of the above, it's always a good idea to maintain a Refusals Register detailing all refused sales and refused admissions.
- Local "Pubwatch" & "Nightwatch" schemes already operate within the Authority area offering support and an opportunity for the trade to share information. If you are not already

Annex B- Code of Best Practice for Licensed Premises

a member of one of these schemes just contact the Licensing Team at licensing@bathnes.gov.uk or call 01225 477556 for up to date contact details.

Alcohol sold for consumption off the premises

- If you supply alcohol by virtue of a Club Premises Certificate you will already be aware of the mandatory condition requiring all alcohol supplied for consumption off the premises to be in sealed containers. If your premises licence does not endorse this, the Authority would encourage the best practice of all alcohol sold for consumption off the premises being supplied in its original, sealed container.

Dispersal Policy

- Do you have a dispersal policy in place?
- Why not consider employing door staff to supervise your patrons when leaving the premises and to remain on duty for 20 minutes after closing?
- Have you considered allowing your customers to wait inside the premises for their transport home?
- If Late Night Refreshment is permitted under your authorisation, why not serve coffee and non-alcoholic beverages to those who are waiting for transport?
- Please be aware of any vulnerable people on, or within the vicinity of your premises. Are there any young females leaving your premises alone for example? Could you offer to call a cab on their behalf and allow them to wait inside the premises until it arrives?
- Think about displaying 'Don't drink and drive' messages at exits to remind customers of the dangers of drink driving

Drugs Policy

- Advertise the fact that the premise has a "Zero Tolerance" policy in respect of drugs by prominently displaying signage at the premises.
- Refuse entry to any known or suspected drug dealers.
- Although not a legal requirement, premises who implement a drugs policy are demonstrating that they are taking a pro-active approach to safeguarding both their customers and their staff.
- Depending on the nature of the premises, search policies may be appropriate.
- Regularly carry out toilet checks and maintain a record of such checks or employ a toilet attendant or supervisor.

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- Any items seized should be recorded and placed in an envelope or drugs bag detailing what the item is, the date it was found/seized and by whom. Place any items in a safe or drugs box and contact the Police.

Security

- If you are using CCTV it is essential that the system is maintained in good working order.
- Ensure footage is kept for a minimum of 31 days and made available to the Police or Licensing Authority upon request. Train staff so that they are competent at carrying out this task.
- Focus on internal areas that are accessible to the public and areas immediately outside the premises.
- Consider using an alarm system or other security measure so as to protect the premises when it is closed or empty.
- Notices advising “CCTV in operation” can act as a deterrent, as does the use of outside lighting – be careful not to cause a nuisance with regards to the latter.
- Review your security policy regularly.
- If you are a licensed premises in Bath you could participate in the Bath BID’s Nightwatch radio scheme that connects licensed premises with the Police, CCTV and other licensees. Contact the Bath BID Company for more information at 01225 430 640.

Door Staff

- Any door staff or persons employed to supervise the door or carry out security functions must be registered in accordance with the Security Industry Authority (SIA) Regulations.
- Fluorescent jackets, tabards and arm bands can help customers more readily identify those who are employed to carry out a security function at your premises. Fluorescent jackets can be provided free of charge to licensees through the Bath BID Nightwatch scheme. If your authorisation does not require this then ensure that badges worn by SIA registered staff are always prominently displayed.

Search Policies

- Even if the need is considered low, some licensed premises would benefit from having a search policy even if it only consists of randomly searching bags.

Promote Well-Being and Reduce Anti-Social Behaviour, Crime and Disorder

Annex B- Code of Best Practice for Licensed Premises

- If you area among the Authority's growing "off trade" establishments, refuse single can sales and refrain from displaying alcohol by entrances, exits or tills;
- Remove super-strength (10%) cider, lager and beers from your offering.
- Offer a wide range of non-alcoholic beverages
- If you are selling or supplying alcohol for consumption on the premises you **MUST ENSURE** free drinking water is available at all times. It is irrelevant whether the water comes from a tap or is bottled just as long as it is fit for drinking ("potable").
- Ensure all drinks promotions are risk assessed and comply with existing legislation. It is no longer sufficient to show that "all reasonable steps" have been taken – it is now a mandatory condition that all premises selling or supplying alcohol for consumption on the premises **MUST ENSURE** staff do not carry out, arrange or participate in any **IRRESPONSIBLE PROMOTIONS**. You may find the following factors worth considering when determining whether your proposals are irresponsible, or not.

CONSIDER:

- The nature of the premises – is it a family orientated community pub, a restaurant closing at 23:00 or a high volume vertical drinking establishment?
- The nature of the promotion – consider the size and duration of the discount you are proposing; is there a "significant risk" that your promotion will undermine a licensing objective????
- The type of customers your promotion has the potential to attract.
- The number of customers your promotion has the potential to attract along with any knock-on effect this will have in respect of security requirements and staffing levels.
- The history of the premises – is there anything to be learned from the outcome of any previous promotions held at the premises? Has the premises licence been subject to a recent review?
- Are you confident that you can run your promotion without it causing a detrimental effect on the licensing objectives?

The following activities are **not permitted** under any circumstances:

- Drinking games that encourage people to consume a greater amount of alcohol in a shorter period of time or simply to drink as much as possible;
- The use of promotional materials that condone or glamorise anti-social behaviour or drunkenness;
- Dispensing alcohol directly into the mouth of another.

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- Please ensure that no alcohol is sold below the cost of duty plus VAT.
- **“All good things come in small packages”** – as you are no doubt aware, since 1 October 2010 it has been a requirement that all premises selling or supplying alcohol for consumption on the premises make the following alcoholic drinks available in the following measures:
 - Beer or cider: ½ pint;
 - gin, rum, vodka or whiskey: 25ml or 35ml;
 - still wine in a glass: 125ml

In addition to the above, you are now required to display these smaller measures on menus and price lists, and, where a customer does not inform you of their preferred size, you must make your customer aware of the range of sizes available to them. It is important therefore to ensure staff are appropriately trained and all materials such as menus and price lists have been re-printed to avoid breaching this mandatory condition.

“Step up to the plate” and do your bit to help reduce the number of people who are at risk of drinking to excess within our communities.

PREVENTION OF PUBLIC NUISANCE

Sssshhh!

- Displaying signage at all exits requesting customers to be considerate of your neighbours when leaving the premises is a pro-active, cost effective way of promoting this licensing objective.
- Have you considered restricting the use of any outside areas the premises may have as a means of preventing nuisance?
- Closing windows and external doors at 23:00 when regulated entertainment is being provided can greatly reduce noise nuisance to nearby residents.
- Have you considered providing your neighbours with a contact telephone number on which someone at the premises may be reached if noise related problems occur?
- Regular noise monitoring carried out around the perimeter of the premises is simple, cost effective, and will help you to gauge the level of noise other people are experiencing within the vicinity of your premises. If this is something you regularly practice, why not record your findings - they may prove useful in the future.
- Environmental Health Officers are available to offer advice in relation to reducing noise emanating from your premises. In addition the team has produced a Code of Practice and guidance notes on controlling noise at concerts and outdoor events. For further information please email environmental_protection@bathnes.gov.uk or telephone: 01225 477563.

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- Be mindful of any outside lighting – there needs to be a balance between promoting public safety and preventing public nuisance.

First impressions really do count

- Keeping the frontage of your premises clean and clear of litter will not only prevent nuisance but will also make your premises more attractive to potential customers.

PUBLIC SAFETY ON THE PREMISES

- To promote the safety of your customers whilst on the premises consider using polycarbonate or toughened glass after a certain time or during a specific event.
- Ensure that you promptly clear away any empty glasses or abandoned drinks from the bar, tables or outside areas.
- Did you know that licensed premises are regularly prosecuted for not having carried out adequate fire risk assessments?
- Under the Regulatory Reform (Fire Safety) Order 2005 you must risk assess your premises. Fire Safety Officers can offer advice to assist you with your assessment. For further information please contact:

Avon Fire & Rescue Service

Temple Back

Bristol BS1 6EU

Telephone: 0117 9262061 or email: BathCFSEnquiries@avonfire.gov.uk

- Do not carry out any irresponsible drinks promotions at or from your premises that encourage people to drink more than they would ordinarily do or faster than they would ordinarily do.
- Maintain a documented accident record at your premises, detailing the date, time and nature of any accident.
- Have you given due consideration to capacity limits and do you have an evacuation policy in respect of your premises? Have your colleagues received training in respect of this?

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PROTECTION OF CHILDREN FROM HARM

Everyone involved in the licensing process has a duty to protect children from moral, psychological and physical harm.

Age related products

- Always provide training for staff in relation to the sale of alcohol/ age related products. Update training on a regular basis to ensure they are aware and understand the implications of any changes in the legislation. You may find it beneficial to keep a record of training given especially if your premises has a high turnover of staff or operates on a seasonal basis.
- For information relating to the illegal tobacco campaign visit www.stop-illegal-tobacco.co.uk
- Be aware that Test Purchase operations are actively carried out within the Authority Area. To report under-age sales please contact the Trading Standards Team.
- Retailers may reserve the right to refuse to sell alcohol to an adult accompanied by a child, if they believe the alcohol is being purchased for the child.
- As it is a mandatory condition for **all premises** selling or supplying alcohol to have an age verification policy in place, why not protect yourself and your staff by adopting one of the following schemes?

Challenge 21

- Awareness of the need for those involved in selling alcohol to be vigilant in preventing underage sales continues to be raised by The British Beer & Pub Association's "Challenge 21" scheme. The scheme is a reminder to customers that it is illegal to purchase alcohol if you are under 18 years of age, or to purchase alcohol on behalf of anyone else who is under 18 years of age.
- If you choose to adopt this scheme, challenge any person who appears to be under 21 years of age and refuse to serve alcohol to them unless proof of age bearing the persons photograph, date of birth and a holographic mark is produced.
- Hard copies of the "Challenge 21" poster (recently updated to include military I.D.) may be obtained from the BBPA's shop free of charge to members or downloaded for free from:

<http://www.beerandpub.com/industry-briefings/challenge-21>

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Challenge 25

- The “Challenge 25” scheme builds on the Challenge 21 scheme introduced by the BBPA. Anyone involved in selling alcohol to the public can access further information about the scheme by accessing the Wine and Spirit Trade Association (WSTA) website at: <http://www.wsta.co.uk>
- As mentioned above, there is a mandatory condition requiring all premises who sell or supply alcohol to have an age verification policy– **What’s yours?**
- **Did you know that although the holder of the premises licence or club premises certificate has a responsibility in respect of adopting a policy at the premises, it is the Designated Premises Supervisor who is responsible for ensuring that the supply of alcohol at the premises is carried on in accordance with that policy?**
- Do you need a little help drafting a policy? Just flick to the end of the Code – we’ve attached a model policy that you can easily adapt to suit your needs.

Identification

- All age verification policies must require individuals to produce on request identification bearing their photograph, date of birth and either a holographic mark or ultra violet feature.
- Did you know that the Proof of Age Standards Scheme (PASS) was re-launched earlier this year? The good news is that all future cards will be of a standard design so that they are easier to recognise.
- Other acceptable forms of identification are military passes, passports and the photo card part of driving licences.
- The False ID Guidance issued by the Home Office may be accessed from:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98108/false-id-guidance.pdf
- Consider subscribing to the “No proof of age- No sale” toolkit which is published by SWERCOTS. This is a training resource and more information can be found at <http://swercots-partners.org.uk/npoans-demo>

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Restricting Access

- In the first instance the legislation encourages family friendly premises, however, depending on the nature of your premises it may be necessary to restrict children's access to certain areas or to restrict the times that children may remain on the premises.
- You have a duty not only to protect children from the obvious harms associated with alcohol, but also to protect them from wider harms associated with adult entertainment and certain films.

Offences Relating to Children and Alcohol

- Are you fully aware of the offences relating to children under the legislation?
- Did you know that it is an offence:
 - to knowingly allow unaccompanied children under the age of 16 on premises when open and primarily used for the sale or supply of alcohol?
 - to sell alcohol to someone under 18 or supply alcohol to a club member or guest under 18?
 - to sell or supply liquor confectionery to a person under 16 years of age?
 - for an adult to buy or attempt to buy alcohol on behalf of someone under 18 years of age?
 - for someone under 18 years of age to buy alcohol or attempt to buy alcohol?
 - for someone under 18 to consume alcohol in a licensed premises except where the child is 16 or 17 years of age, accompanied by an adult, is having a table meal and beer wine or cider is purchased by the adult?
 - to knowingly allow the consumption of alcohol by a person under 18 on premises authorised by a premises licence, club premises certificate or temporary event notice excepting the above?
 - for an adult to purchase alcohol for someone under 18 to consume on licensed premises excepting the above re 16 and 17 year olds?
 - to give children alcohol if they are under 5 years of age?

Smoke Free

- Actively supervise customers smoking outside of the premises or in any outside areas – remember they may not be aware of conditions that may be attached to your authorisation restricting the use of certain outside areas.
- Remember it is against the law to sell tobacco products from a vending machine directly to the public, and that it is also illegal to display pictures or advertisements of tobacco products on vending machines.

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OTHER MATTERS FOR CONSIDERATION

Have you considered any ancillary permissions or guidelines that may be relevant to your business or client such as those relating to planning, street trading, the placing of tables and chairs on the highway or the use of "A" Boards?

Information regarding all of the above may be accessed via our website at www.bathnes.gov.uk .

Other useful contacts are:

www.drinkaware.co.uk

DHI (Developing Health and Independence)

Tel: 01225 329 411 available from 10am -7pm

Email: info@dhibath.org.uk

Website: <http://www.dhi-online.org.uk/>

Licensing Team

Public Protection Service

Lewis House

Manvers Street

Bath BA1 1JG

Tel: 01225 477556

Email: licensing@bathnes.gov.uk

Model age verification policy to be attached

Annex C

Impacts of the Night Time Economy in Bath and North East Somerset – 2013 Profile

Introduction

The purpose of this report is to assess the effect of the Night Time Economy on the area of Bath and North East Somerset in terms of crime and disorder and environmental impacts, and how these may have changed overtime.

It will analyse the following:

- **Crime data** - The extent and nature of crime and disorder in B&NES as a whole and how this has changed over time in relation to the following:
 - Numbers of incidents
 - Gender of offenders
 - *Age of offenders*
 - *Day of offences*
 - *Time of offences*

How the levels and nature of crime and disorder differs in the following areas within B&NES and how this has altered over time:

- *Bath City Centre*
- *Other significant wards within Bath*
- *Keynsham*
- *Midsomer Norton*
- *Radstock*

The principal hotspots for night time economy related crimes in Bath City Centre.

- **Drink driving offences** - Number and nature of offences overtime
- **Alcohol licence premises** - Numbers and geographical distribution - wards
- **Complaints recorded by the licensing team** – Numbers and types
- **Noise complaints made to the Council:**
 - Type
 - How they were received
 - Geographical distribution – wards
 - When – months complaints were made
 - Trends overtime
- **Street Marshal Records:**
 - Numbers of incidents
 - Locations of incidents in terms of taxi ranks
 - Day of incidents
 - Type of incidents
 - Trends overtime
- **Results from recent Voicebox Residents Surveys:**
 - Bath City Centre at Night
 - Drunk and Rowdy Behaviour
 - Purple Flag Award

Data Sources

- Police Aspire Crime database, Bath and North East Somerset Recorded Crime January 2008 –February 2013
- Bath Police Station B&NES drink driving data – 2010/11 – 2012/13

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- Council's Licensing Team Uniform database, details of licensing activities - current licenses and complaints data 2010 – 2013
- Public Protection Team Service Requests - reported noise complaints, 2006-October 2013
- Monitoring data – Bath BID Street Marshals and Medics Weekly report data August 2012-July 2013
- The Royal Society for the Prevention of Accidents Water Safety Review, River Avon Bath – 2008-2011
- Marketing Means Voicebox 15 Resident Survey Weighted Headlines – March 2009 – June 2009
- Wyman Dillon Voicebox 17 Resident Survey Weighted Headline Results – March 2010 – May 2010
- RMG Clarity Voicebox 21 Resident Survey Reports – November 2012 – January 2013
- Marketing Means Voicebox 22 Resident Survey, Results weighted by age and gender – November 2013 – January 2014

Night Time Economy Related Crime and Disorder Definition

Offences of violent crime and criminal damage occurring between the hours of 20:00 and 04:00 taking place outside of the home not otherwise defined as domestic violence or hate crime.

This definition is designed purely to assess levels of offending within the public realm where alcohol can be deemed likely to have been a contributing factor with a moderate degree of statistical certainty.

Crimes Linked to the Night Time Economy ¹

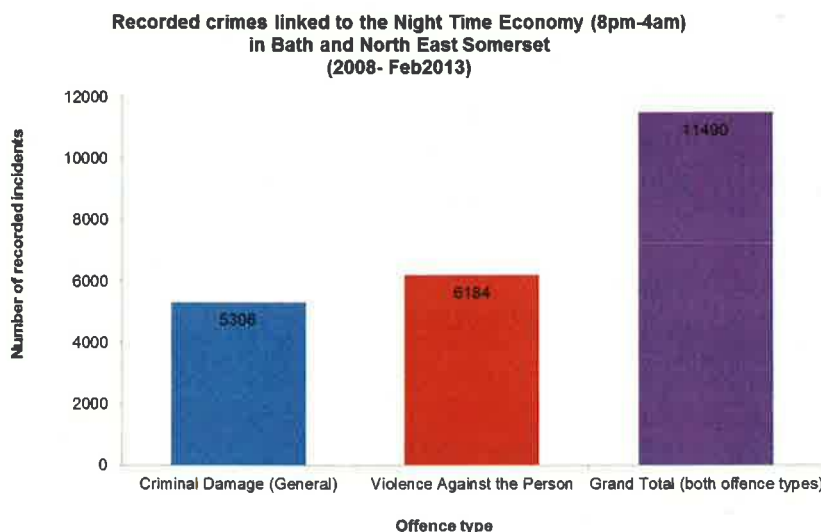


Figure 1: Recorded crimes linked to the Night Time Economy (8pm -4am) in B&NES (2008-February 2013)

In Bath and North East Somerset, between 2008 and February 2013 the police recorded 11,490 crimes (criminal damage and violence against the person) linked to the Night Time Economy (8p-4am), 54% (6,184 incidents) of which were violence against the person incidents and 46% (5,306 incidents) of which were criminal damage incidents.

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Trends over time

There has been a 26% reduction in the number of crimes linked to the Night Time Economy in Bath and North East Somerset over the 5 year period between the year Quarter 4 of 2007/08 - Q3 2008/09, with a total of 2,504 crimes, and the year Quarter 4 2011/12 - Q3 2012/13, with a total of 1,841 crimes.

There was a 14% reduction in the number of crimes linked to the Night Time Economy in B&NES between the year Quarter 4 of 2010/11 - Q3 2011/12, with a total of 2,153, and the year Quarter 4 2011/12 - Q3 2012/13, with a total of 1,841 crimes.

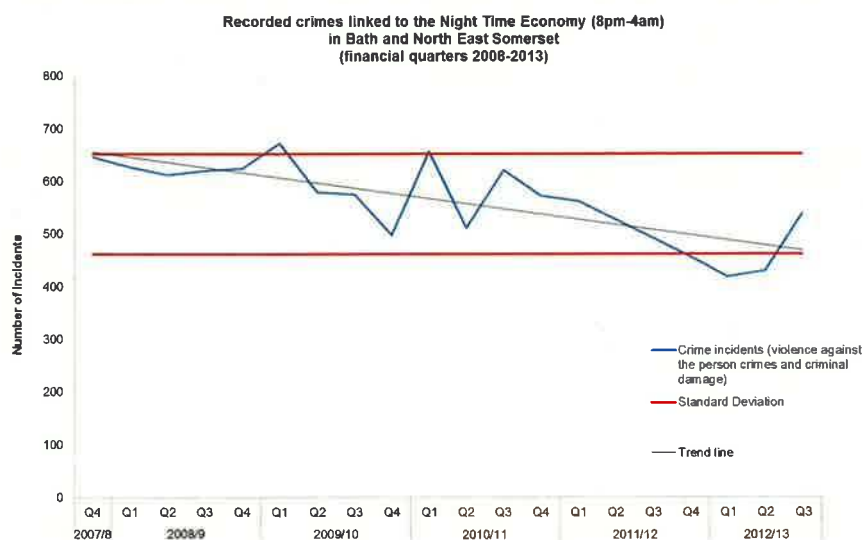


Figure 2: Recorded crimes linked to the Night Time Economy (8pm-4am) in B&NES (financial quarters 2008-2013)

More work is needed to assess the reasons for this decline. This decrease is likely to be caused by a range of factors. Work will also be done to assess whether this reduction is in any way linked to interventions that have been put in place locally.

Gender of offenders

On average, over the 5 year period between the year Quarter 4 of 2007/08 and Q3 2012/13 where the gender of the offenders of crimes linked to the Night Time Economy in B&NES was known and recorded, 80% of the crimes were recorded as being perpetrated by male offenders, and 20% by female offenders.

The recorded gender makeup of offenders during this period has altered slightly, with the proportion of male offenders compared to female offenders increasing from an average of 74% in the year Q4 of 2007/08-Q3 2008/09 to 84% during the year Q4 2011/12 - Q3 2012/13.

The number of crimes which had been recorded as being perpetrated by male offenders increased by 10% between Q4 of 2007/08 - Q3 2008/09 (713 crimes), and the year Q4 2011/12 - Q3 2012/13 (787 crimes).

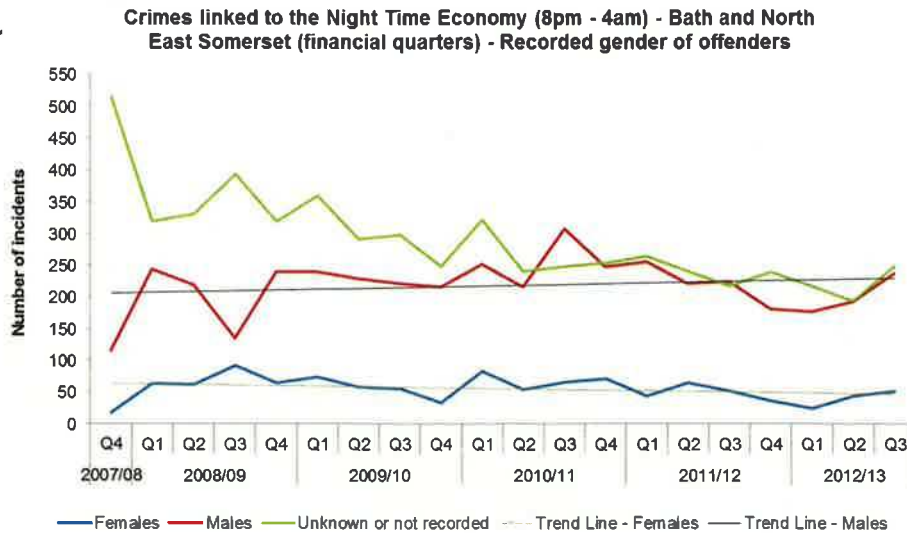


Figure 3: Recorded crimes linked to the Night Time Economy (8pm-4am) in B&NES (financial quarters - 2008 to 2013) – Recorded gender of offenders

However, there has been a 21% reduction in the number of crimes recorded to have been perpetrated by men between the year Q4 of 2010/11 - Q3 2011/12 (990 crimes), and the year Q4 2011/12 - Q3 2012/13 (787 crimes).

In comparison, the number of crimes which had been recorded as being perpetrated by female offenders decreased by 34% between Q4 of 2007/08 - Q3 2008/09 (234 crimes), and the year Q4 2011/12 - Q3 2012/13 (155 crimes).

It is though important to note that during the 5 year period on average each year the gender of the offender was unknown or not recorded for 51% of the crimes linked to the Night Time Economy in B&NES.

Age of offenders

The first year Quarter 4 2007/08 -Q3 2008/09 has not been included in terms of the analysis of the age of offenders because 90% of the crimes during this year had no age recorded, compared to the 46-52% for the other four years.

On average, over the 4 year period between the Q4 of 2008/09 and Q3 2012/13, where the age of offenders of crimes linked to the Night Time Economy in B&NES was recorded:

- 60% of the crimes were recorded as perpetrated by offenders aged 16-27
- 18% by those aged 28-39
- 13% by those aged 40-51
- 5% by those under 16
- 3% by those aged 52-63
- 1% by those aged 64-75
- and less than 1% of crimes were perpetrated by those aged 76 and over.

The recorded age makeup of offenders during this period did not alter a great deal.

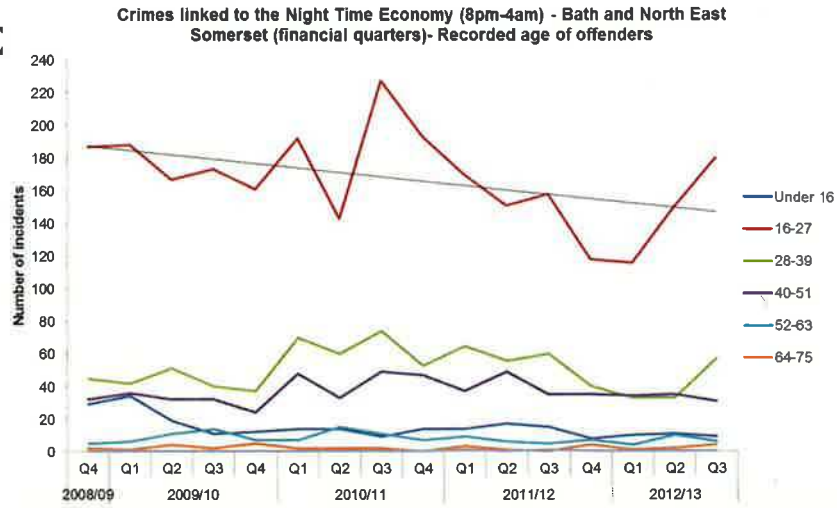


Figure 4: Recorded Crimes linked to the Night Time Economy (8pm-4am) in B&NES (financial 2009 to 2013) – Recorded age of offenders

Offenders aged 16-27 was the only age category with any real notable change during this period, decreasing by 21% between Quarter 4 of 2008/09 - Q3 2009/10 (179 crimes), and the year Q4 2011/12 - Q3 2012/13 (141 crimes).

Day of offences

In terms of the daily distribution of crimes linked to the Night Time Economy in B&NES over the 5 year period between the year Quarter 4 of 2007/08 and Q3 2012/13:

- An average of 24% were recorded as having occurred on a Saturday
- An average of 20% on a Friday
- 19% on a Sunday.
- 10% on both Tuesdays and Thursdays,
- 9% on Wednesdays and 8% on Mondays.

This recorded daily distribution of crimes altered very little during this five year period.

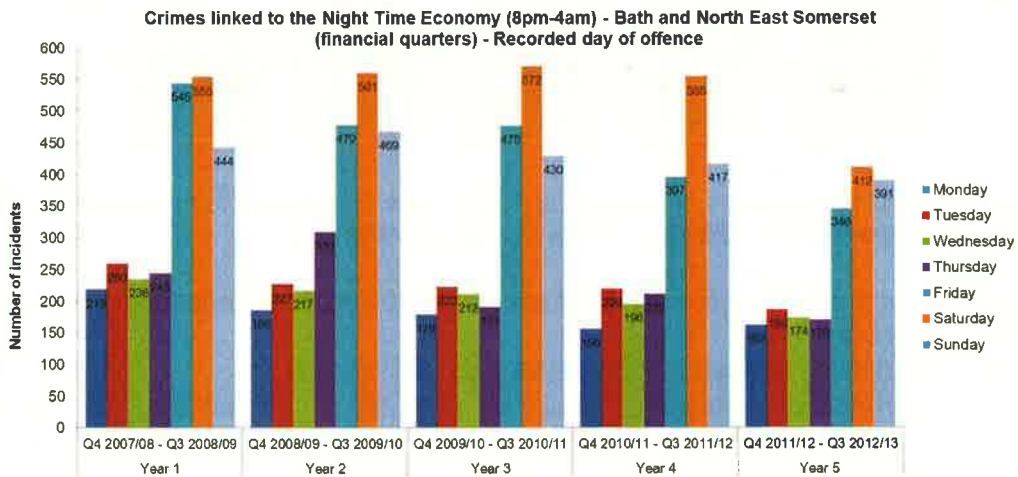


Figure 5: Recorded crimes linked to the Night Time Economy (8pm-4am) in B&NES (financial quarters 2008 to 2013) – Recorded day of offences

It is important to note that though there is a surprisingly high number of night time economy related crimes occurring on a Sunday, a considerable proportion of these will be linked to the Saturday night time economy, as 65% of the crimes recorded as

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occurring on Sunday occurred between midnight and 2:59am, 48% occurred between midnight and 1:59am, and 29% between midnight and 12:59pm.

Between Year 1 and Year 5, all days of the week have experienced a decrease in the numbers of crimes, with the greatest decline occurring on a Friday with a 37% reduction from 545 in Year 1 to 346 in Year 5, followed by Thursday, with a reduction of 31% from 245 crimes in Year 1 to 170 in Year 5. There was a 26% reduction in the number of crimes occurring on a Saturday, from 555 in Year 1 and 412 in Year 5.

Time of offences

By far the greatest proportion of crimes linked to the Night Time Economy in B&NES over the 5 year period Q4 of 2007/08 and Q3 2012/13, were recorded as having occurred between 00:00 (12pm) and 00:59, with an average of 30% of crimes, followed by 23:00-23:59 and 22:00-22:59, both with an average of 12%. This means that during this period 54% of the crimes linked to the Night Time Economy were recorded to have occurred between 22:00-00:59.

The only real notable change in the distribution of the recorded times of crimes during this 5 year period was that of the proportion occurring between 00:00-00:59, which increased from 25% in Year 1 (Q4 2007/08-Q3 2008/09), to 33% in Year 5 (Q4 2011/12-Q3 2012/13).

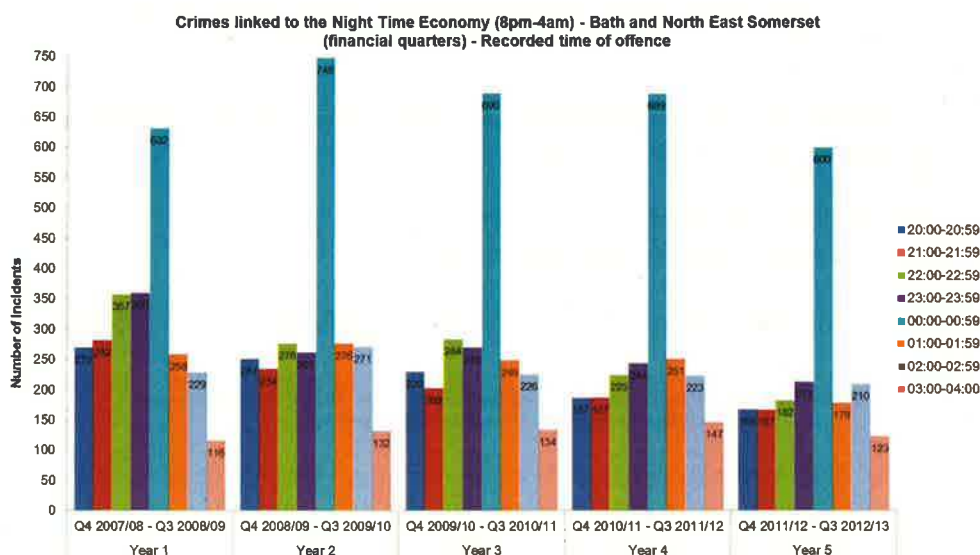


Figure 6: Recorded crimes linked to the Night Time Economy (8pm-4am) in B&NES (financial quarters 2008 - 2013) – Recorded day of offences

Between Year 1 and Year 5, each hour except 03:00-04:00, experienced a decrease in the numbers of crimes:

- 49% decline between 22:00-22:59, from 357 to 182
- 41% reduction between 21:00-21:59, from 282 to 167 and 23:00-23:59, from 360 to 213
- 38% decline between 20:00-20:59, from 270 to 168.

In comparison, there was only a 5% reduction in the number of crimes occurring between 00:00-00:59, from 632 to 600, and the numbers of crimes recorded as having occurred between 03:00-04:00 actually increased by 6%, from 116 to 123.

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Bath City Centre

There has been a 25% reduction in the number of crimes linked to the NTE in Bath city centre (Abbey and Kingsmead wards) over the 5 year period between the year Q4 of 2007/08 - Q3 2008/09 (910 crimes), and the year Q4 2011/12 - Q3 2012/13 (679 crimes).

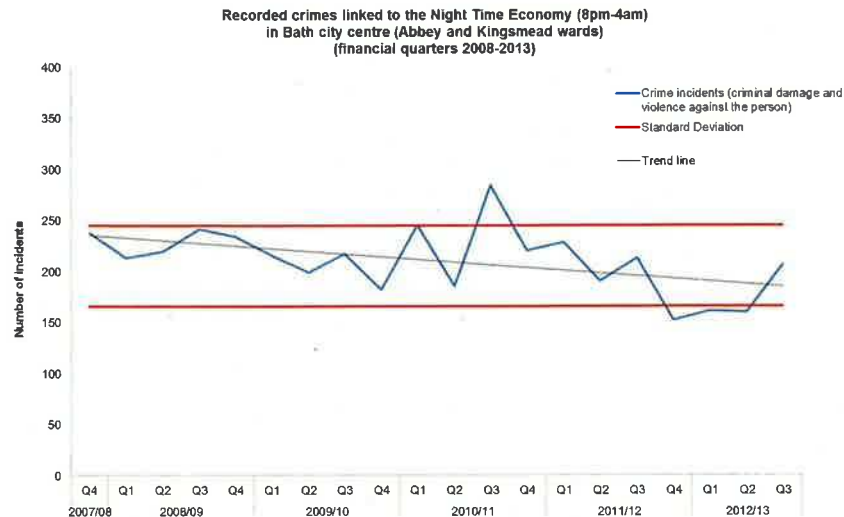


Figure 7: Recorded crimes linked to the Night Time Economy (8pm-4am) in Bath City Centre (financial quarters 2008 - 2013)

Other significant wards within Bath

Five other wards within Bath have also been identified as having experienced comparatively high incidents of crimes linked to the NTE between 2008 and February 2013, Twerton, Southdown, Walcot, Widcombe, and Westmoreland.

There has been a 19% reduction in the number of crimes in these wards over the 5 year period between the year Q4 of 2007/08 - Q3 2008/09 (436 crimes), and the year Q4 2011/12 - Q3 2012/13 (355 crimes).

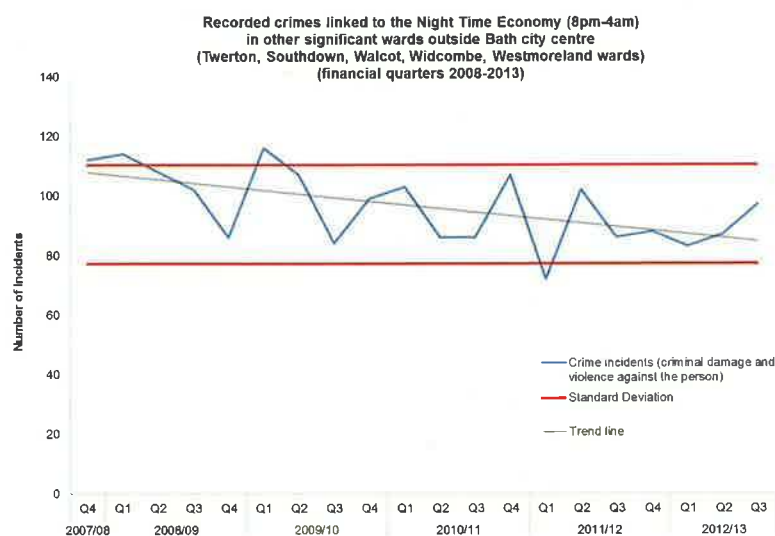


Figure 8: Recorded crimes linked to the Night Time Economy (8pm-4am) in other significant wards outside Bath City Centre (financial Quarters 2008 - 2013)

Annex C

Keynsham

Keynsham (Keynsham North, Keynsham South, and Keynsham East wards) has experienced a particularly sharp decline in crimes linked to the NTE; with a 45% reduction over the 5 year period between the year Quarter 4 of 2007/08 - Q3 2008/09 (191 crimes), and the year Q4 2011/12 - Q3 2012/13 (106 crimes). Much of this reduction has occurred during the most recent couple of years, between the year Q4 of 2010/11 - Q3 2011/12 (193 crimes), and the year Q4 2011/12 - Q3 2012/13 (106 crimes), there was a 45% reduction crimes.

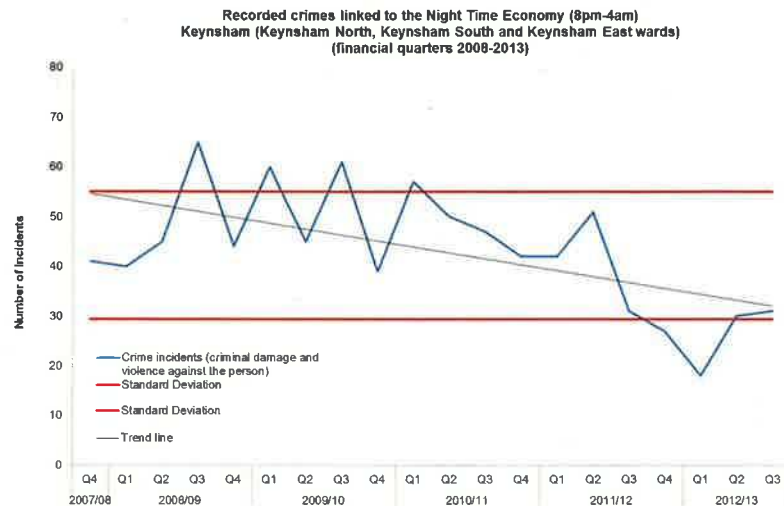


Figure 9: Recorded crimes linked to the Night Time Economy (8pm-4am) in Keynsham (financial quarters 2008 - 2013)

Midsomer Norton

There has been a 37% reduction in the number of crimes linked to the NTE in Midsomer Norton (Midsomer Norton North and Midsomer Norton Redfield wards) over the 5 year period between the year Q4 of 2007/08 - Q3 2008/09 (156 crimes), and the year Q4 2011/12 - Q3 2012/13 (99 crimes).

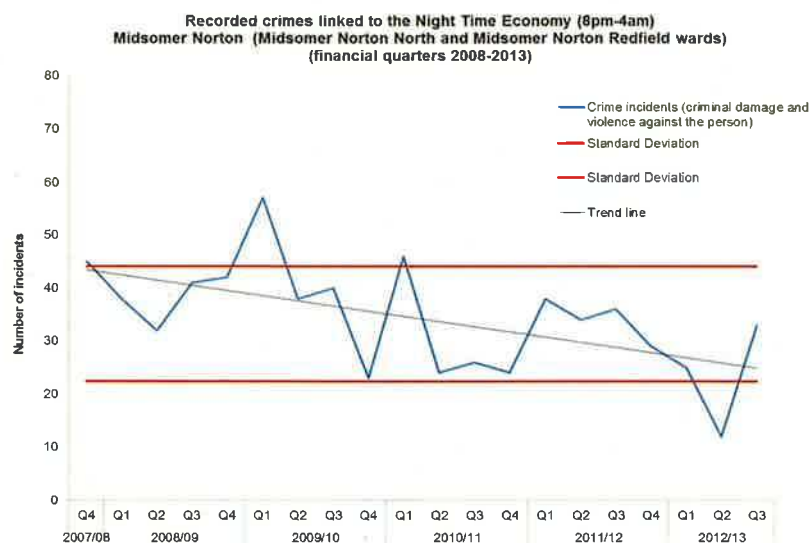


Figure 10: Recorded crimes linked to the Night Time Economy (8pm-4am) in Midsomer Norton (financial quarters 2008 - 2013)

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Radstock

Radstock (Radstock ward) like Keynsham has experienced a particularly sharp decline in the number of crimes linked to the NTE; with a 48% reduction over the 5 year period between the year Q4 of 2007/08 - Q3 2008/09 (67 crimes), and the year Quarter 4 2011/12 - Q3 2012/13 (35 crimes). Between the year Q4 of 2010/11 - Q3 2011/12 (55 crimes), and the year Q4 2011/12 - Q3 2012/13 (35 crimes), there was a 36% reduction in crimes.

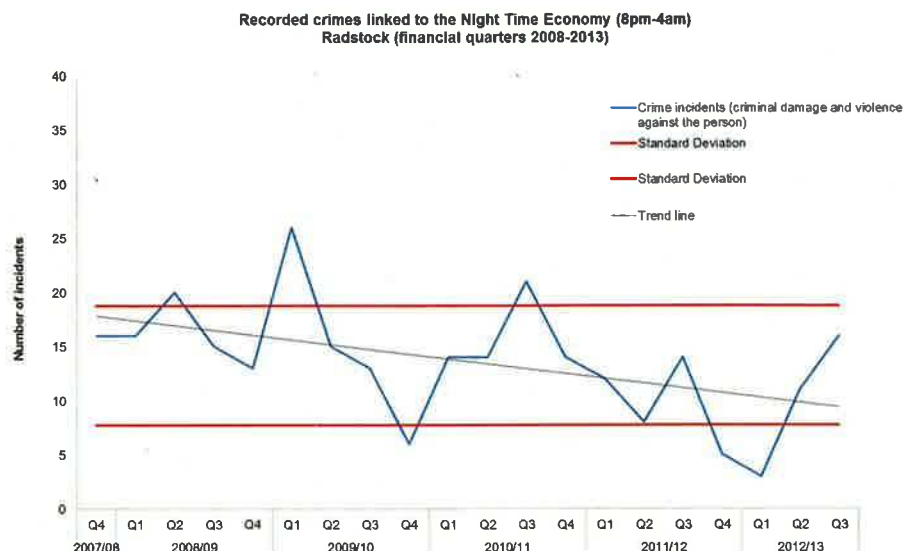


Figure 11: Recorded crimes linked to the Night Time Economy (8pm-4am) in Radstock (financial quarters 2008 - 2013)

Make up of Night Time Economy Crimes

Bath City Centre

In Bath city centre (Abbey and Kingsmead wards), between 2008 and February 2013 the police recorded 4,302 crimes (criminal damage and violence against the person) linked to the NTE (8p-4am), making up 64% of the all the recorded crimes linked to the NTE in B&NES as a whole.

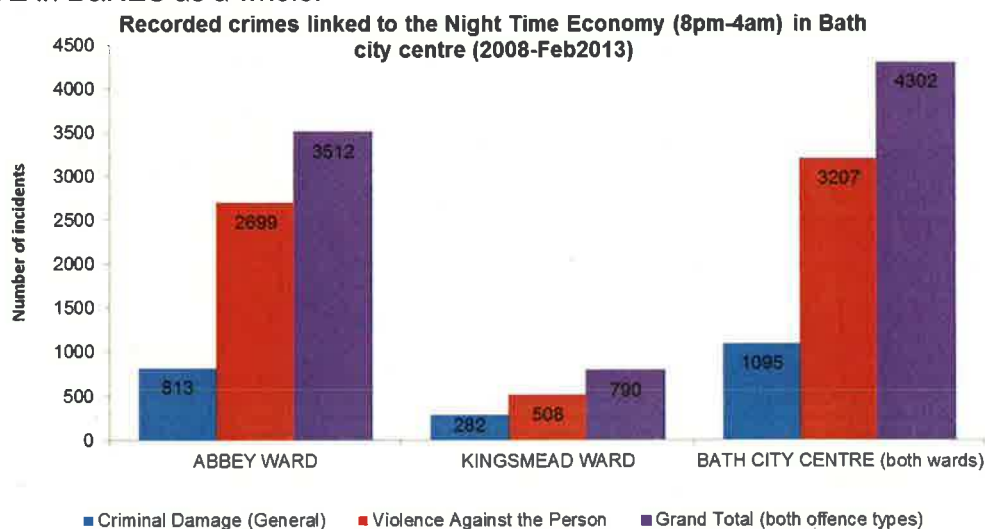


Figure 12: Recorded crimes linked to the Night Time Economy (8pm-4am) in Bath city centre (financial quarters 2008 - 2013)

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The vast majority of these crimes, 75% (3,207 incidents) were violence against the person incidents, compared to the 25% (1,095 incidents) of which were criminal damage. This means that 52% of all the recorded violence against the person crimes linked to the NTE in B&NES during this period occurred in Bath city centre, and 21% of all the NTE related recorded criminal damage incidents.

Within Bath city centre, 84% (3,512 incidents) recorded crimes linked to the NTE during this period occurred in Abbey ward, and 16% (790 incidents) recorded crimes linked to the NTE occurred in Kingsmead ward.

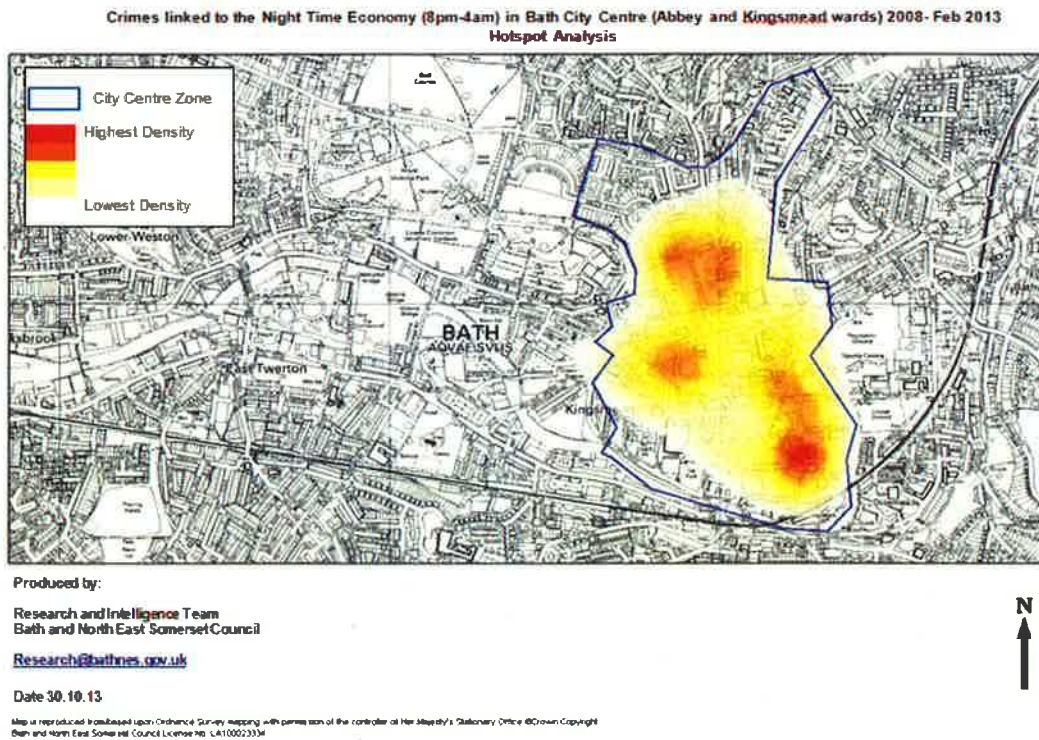


Figure 13: Recorded crimes linked to the Night Time Economy (8pm-4am) in Bath city centre (2008 – February 2013) – Hotspot Analysis

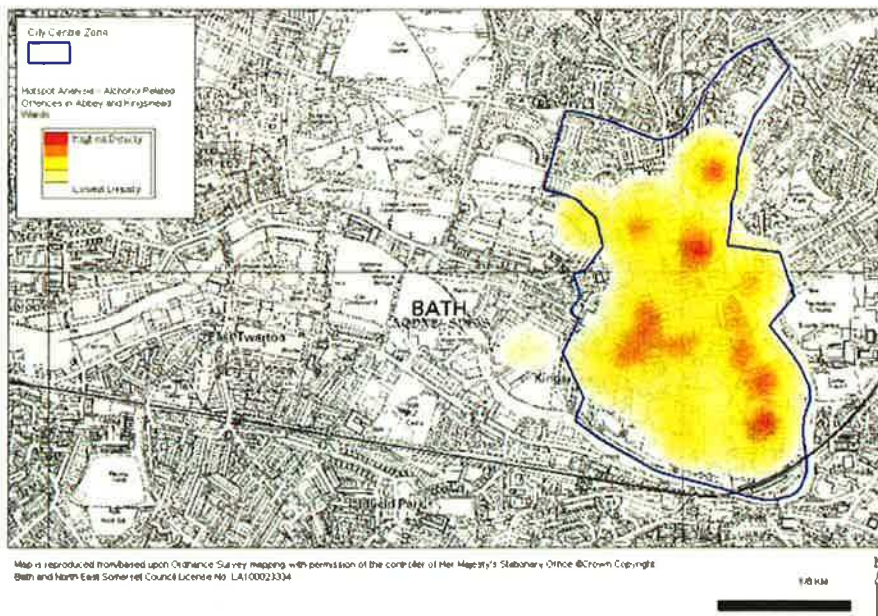


Figure 14: Recorded crimes linked to the Night Time Economy (8pm-4am) in Bath city centre (November 2004 – October 2006) – Hotspot Analysis

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Figures 13 and 14 show how the concentration of crimes linked to the NTE in Bath City Centre has changed since the last hotspot analysis was carried out in 2006. The hotspot areas continue to be within the city centre zone, and on the whole there has not been a great deal of change in their location. There does however appear to be fewer hotspots than before, but those that remain cover larger areas.

Other significant wards within Bath

Five other wards within Bath have also been identified as having experienced comparatively high incidents of crimes linked to the NTE between 2008 and February 2013, Twerton, Southdown, Walcot, Widcombe, and Westmoreland. During this period the police recorded 1,969 crimes (criminal damage and violence against the person) linked to the NTE, making up 17% of the all the recorded crimes linked to the NTE in B&NES as a whole.

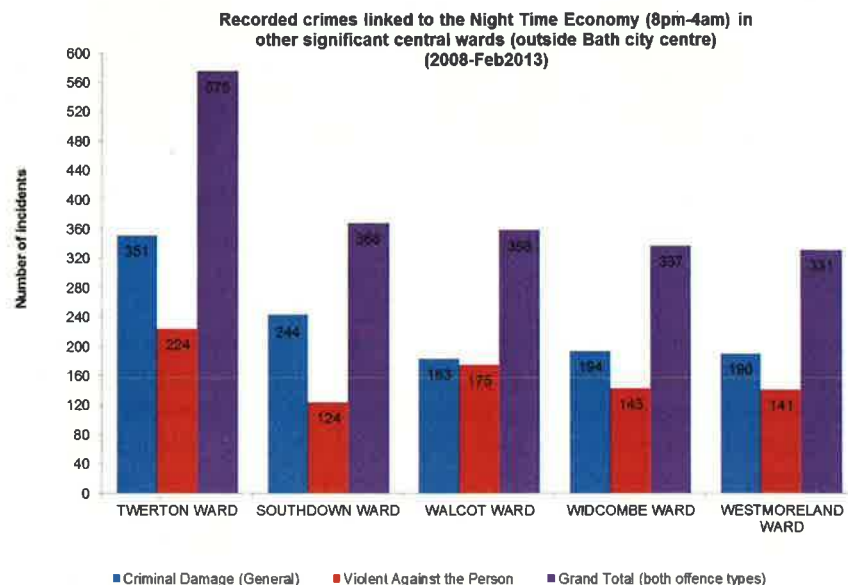


Figure 15: Recorded crimes linked to the Night Time Economy (8pm-4am) in other significant wards outside Bath city centre (2008 – February 2013)

Unlike the wards that make up Bath city centre, over half of the NTE related crimes occurring during this period in these five wards were incidents of criminal damage, making up 59%, 1,162 of the recorded crimes, compared to the 41% (807 incidents) of which were violence against the person crimes. This means that 13% of all the recorded violence against the person crimes linked to the NTE in B&NES during this period occurred in these five wards, and 22% of all the NTE related recorded criminal damage incidents.

Out of these five wards:

- 29%, 575 recorded occurred in Twerton,
- 19%, 368 incidents in Southdown
- 18%, 358 crimes in Walcot,
- 17%, 337 incidents in Widcombe
- and 17%, 331 crimes in Westmoreland

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Keynsham

In Keynsham (made up of Keynsham North, Keynsham South and Keynsham East wards), between 2008 and February 2013 the police recorded 886 crimes (criminal damage and violence against the person) linked to the NTE, making up 8% of the all the recorded crimes linked to the NTE in B&NES as a whole.

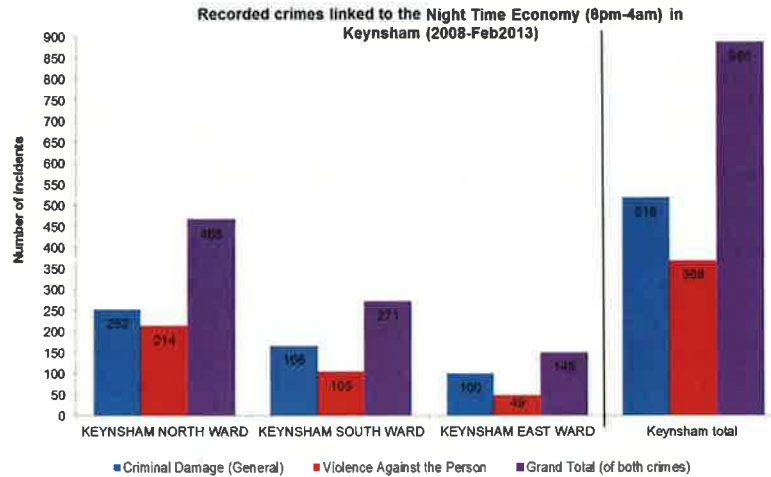


Figure 16: Recorded crimes linked to the Night Time Economy (8pm-4am) in Keynsham (2008 – February 2013)

58% of these recorded crimes, (518 crimes) were criminal damage incidents and 42% (368 crimes) were violence against the person crimes. This means that 6% of all the recorded violence against the person crimes linked to the NTE in B&NES during this period occurred in Keynsham, and 10% of all the NTE related recorded criminal damage incidents.

Within Keynsham, 53%, 466 recorded crimes occurred in Keynsham North, and 31%, 271 incidents in Keynsham South, and 17%, 149 crimes in Keynsham East.

Midsomer Norton

In Midsomer Norton (made up of Midsomer Norton North and Midsomer Norton Redfield wards), during this period the police recorded 697 crimes (criminal damage and violence against the person) linked to the NTE, making up 6% of the all the recorded crimes linked to the NTE in B&NES as a whole.

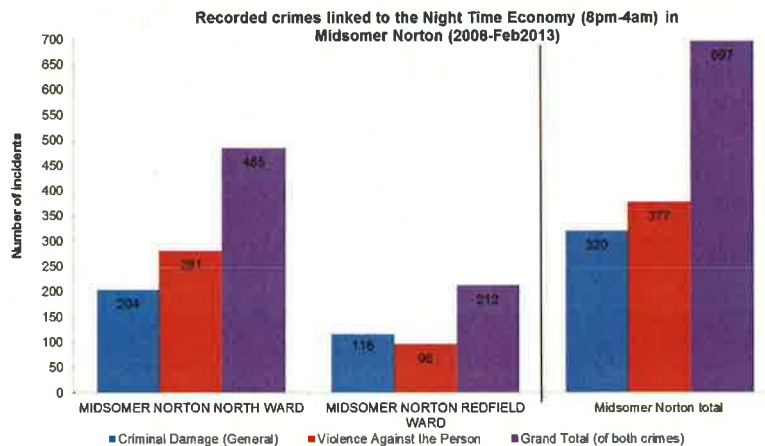


Figure 17: Recorded crimes linked to the Night Time Economy (8pm-4am) in Midsomer Norton (2008 – February 2013)

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54% of these recorded crimes, (377 crimes) were violence against the person incidents and 46% (320 crimes) were criminal damage incidents. This means that 6% of all the recorded violence against the person crimes linked to the NTE in B&NES during this period occurred in Midsomer Norton, and 6% of all the NTE related recorded criminal damage incidents.

Within Midsomer Norton, 70% (485 incidents) of recorded crimes linked to the NTE during this period occurred in Midsomer Norton North, and 30% (212 incidents), in Midsomer Norton Redfield.

Radstock

In Radstock, only made up of the Radstock ward, between 2008 and February 2013 the police recorded 278 crimes (criminal damage and violence against the person) linked to the NTE, making up 2% of the all the recorded crimes linked to the NTE in B&NES.

54% of these recorded crimes, (150 crimes) were criminal damage incidents and 46% (128 crimes) were violence against the person incidents. This means that 3% of all the recorded criminal damage crimes linked to the NTE in B&NES during this period occurred in Radstock, and 2% of all the NTE related violence against the person incidents.

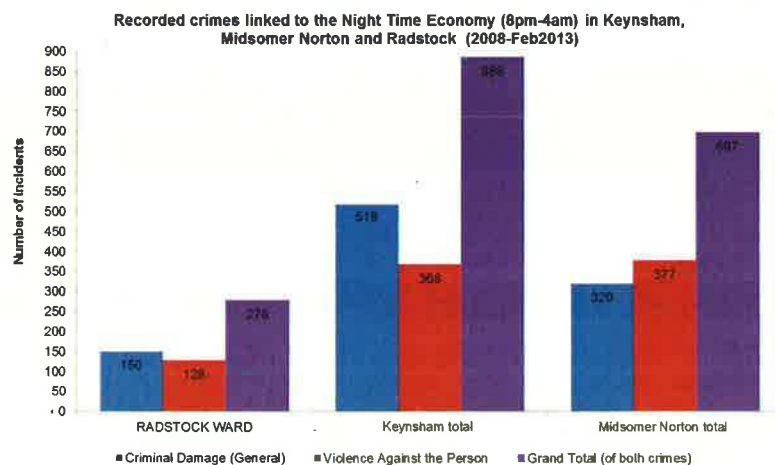


Figure 18: Recorded crimes linked to the Night Time Economy (8pm-4am) in Radstock, Keynsham and Midsomer Norton (2008 – February 2013)

Drink Driving Offences²

The table below outlines the numbers of arrests coming through B&NES custody for offences linked to drink driving for the 3 year period 2010/11 to 2012/13.

Arrest Reason	2010/11	2011/12	2012/13
In charge of motor vehicle - excess alcohol	21	6	16
Positive Breath Test	148	162	121
Refused Breath Test	8	4	5
Grand Total	177	172	142

Table 1: Numbers of arrests coming through B&NES custody for offences linked to drink driving for the 3 year period 2010/11 to 2012/13

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The table indicates that on the whole the numbers of drink driving offences reduced in this three year period, with slight variations across offence types. It is important to note that the refused breath test arrests do not necessarily result in a positive breath test.

The other offence types that could be attributed to drink driving are:

- Unfit through drink or drugs
- Death by careless driving under the influence of alcohol

No arrests were found for the above offence types but it is important to bear in mind that the data search was for the primary reason for arrest, and thus these may have been given as secondary reasons for some offenders.

The police have an initiative called operation Tonic to tackle drink driving and their media campaigns normally occur in July and December.

Premises with Alcohol Licenses³

In June 2013 there were 724 premises with alcohol licenses in B&NES, 56% (405 premises) have late night opening times after 11pm, and 7%, 51 premises are open after 1am.

Distribution of these 724 premises with alcohol licenses:

Study areas and wards	Number of premises with alcohol licenses	% of B&NES
Bath City Centre	262	36%
Abbey	218	30%
Kingsmead	44	6%
Other significant wards within Bath	68	9%
Twerton	10	1%
Southdown	7	1%
Walcot	13	2%
Widcombe	25	3%
Westmoreland	13	2%
Keynsham	33	5%
Keynsham East	14	2%
Keynsham North	11	2%
Keynsham South	8	1%
Midsomer Norton	27	4%
Midsomer Norton North	20	3%
Midsomer Norton Redfield	7	1%
Radstock	14	2%

Table 2: Distribution of the 724 premises with alcohol licenses in B&NES in June 2013, by ward.

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Licensed premises with late night opening:

Study areas and wards	Numbers of premises open after 11pm	% of the 724 premises B&NES	% of the 405 premises open after 11pm in B&NES
Bath City Centre	176	24%	43%
Abbey	143	20%	35%
Kingsmead	33	5%	8%
Other significant wards within Bath	25	3%	6%
Twerton	4	1%	1%
Southdown	0	0%	0%
Walcot	6	1%	1%
Widcombe	15	2%	4%
Westmoreland	8	1%	2%
Keynsham	18	2%	4%
Keynsham East	7	1%	2%
Keynsham North	6	1%	1%
Keynsham South	5	1%	1%
Midsomer Norton	14	2%	3%
Midsomer Norton North	12	2%	3%
Midsomer Norton Redfield	2	0%	0%
Radstock	8	1%	2%
Not Known	25	3%	6%
Total for B&NES	405	56%	100%

Table 3: Distribution of the premises with alcohol licenses that can stay open after 11pm in B&NES in June 2013, by ward.

Study areas and wards	Numbers of premises open after 1am	% of all 724 premises in B&NES	% of the 405 premises open after 11pm in B&NES	% of the 51 premises open after 1am in B&NES
Bath City Centre	32	4%	8%	63%
Abbey	30	4%	7%	59%
Kingsmead	2	0%	0%	4%
Other significant wards within Bath	5	1%	1%	10%
Twerton	0	0%	0%	0%
Southdown	0	0%	0%	0%
Walcot	1	0%	0%	2%
Widcombe	4	1%	1%	8%
Westmoreland	0	0%	0%	0%
Keynsham	1	0%	0%	2%
Keynsham East	0	0%	0%	0%
Keynsham North	1	0%	0%	2%
Keynsham South	0	0%	0%	0%
Midsomer Norton	0	0%	0%	0%
Midsomer Norton North	0	0%	0%	0%
Midsomer Norton Redfield	0	0%	0%	0%
Radstock	1	0%	0%	2%
Not Known	0	0%	0%	0%
Total for B&NES	51	7%	13%	100%

Table 4: Distribution of the premises with alcohol licenses that can stay open after 1am in B&NES in June 2013, by ward.

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Complaints to the Council's Licensing Team ⁴

Between 2010 and 2013 the Licensing Team in the Council recorded 52 complaint incidents relating to the impacts of premises serving alcohol in B&NES. These were made up of 63 individual complaints:

- 56% (35 complaints) of these related to noise pollution, either relating to people (24%) or music (32%).
- 8% (5 complaints) were relating to other perceived incidents of crime and disorder and antisocial behaviour, including aggressive and violent behaviour.
- 6% of complaints were related to underage sales
- 5% of complaints were related to irresponsible drinks promotions
- 5% were related to breach of opening times.

Noise complaints made to the Council's Public Protection Team ⁵

Between January 2006 and October 2013 there were 7,960 complaints made to the Council's Public Protection Team regarding noise.

Types of complaint

During this period:

- 65%, 5,209 complaints were made about noise coming from a domestic dwelling
- 19%, 1,477 complaints made about noise from premises of entertainment or with alcohol licenses, such as pubs and clubs
- 14%, 1,086 complaints were about noise coming from the street (inc. buskers)
- 2%, 188 complaints were regarding students in domestic dwellings

Noise complaints made to the Public Protection Team (January 2006-October 2013) - By type

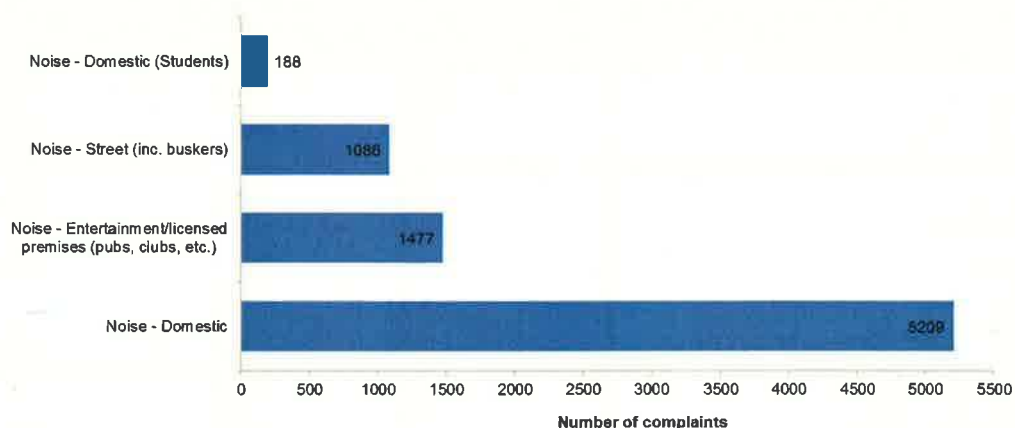


Figure 19: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – By type

How complaints were received

Between January 2006 and October 2013:

- 39.8%, 3167 noise complaints were received by telephone
- 36.7%, 2921 noise complaints were received by the Emergency/Out of Hours Service.

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- 10.3%, 822 complaints were received by email
- 4.9%, 387 complaints were received by letter
- 1.2%, 95 complaints were made at the Council's reception

The following methods each made up less than 1% of the ways in which people made noise complaints to the council during this period, via an officer/member of staff, memorandum, on site, council connect, facsimile, petition, Councillor, personal visit, and referrals from others.

Wards of addresses being complained about

During the period between January 2006 and October 2013, the locations that noise complaints were made about came from 36 wards:

- Abbey ward had the greatest number of locations with 1027 complaints, making up 13% of all complaints,
- followed by Kingsmead with 471, 6%,
- Walcot with 362, 5%,
- and Twerton with 335, 4%.

The complaints directed at each of the remaining wards made up 3% or less for each ward. It is though worth noting that no postcode was recorded for 22% of complaints (1767) and so we are not able to identify these wards.

Noise complaints made to the Public Protection Team (January 2006 -October 2013) -
By ward of location being complained about

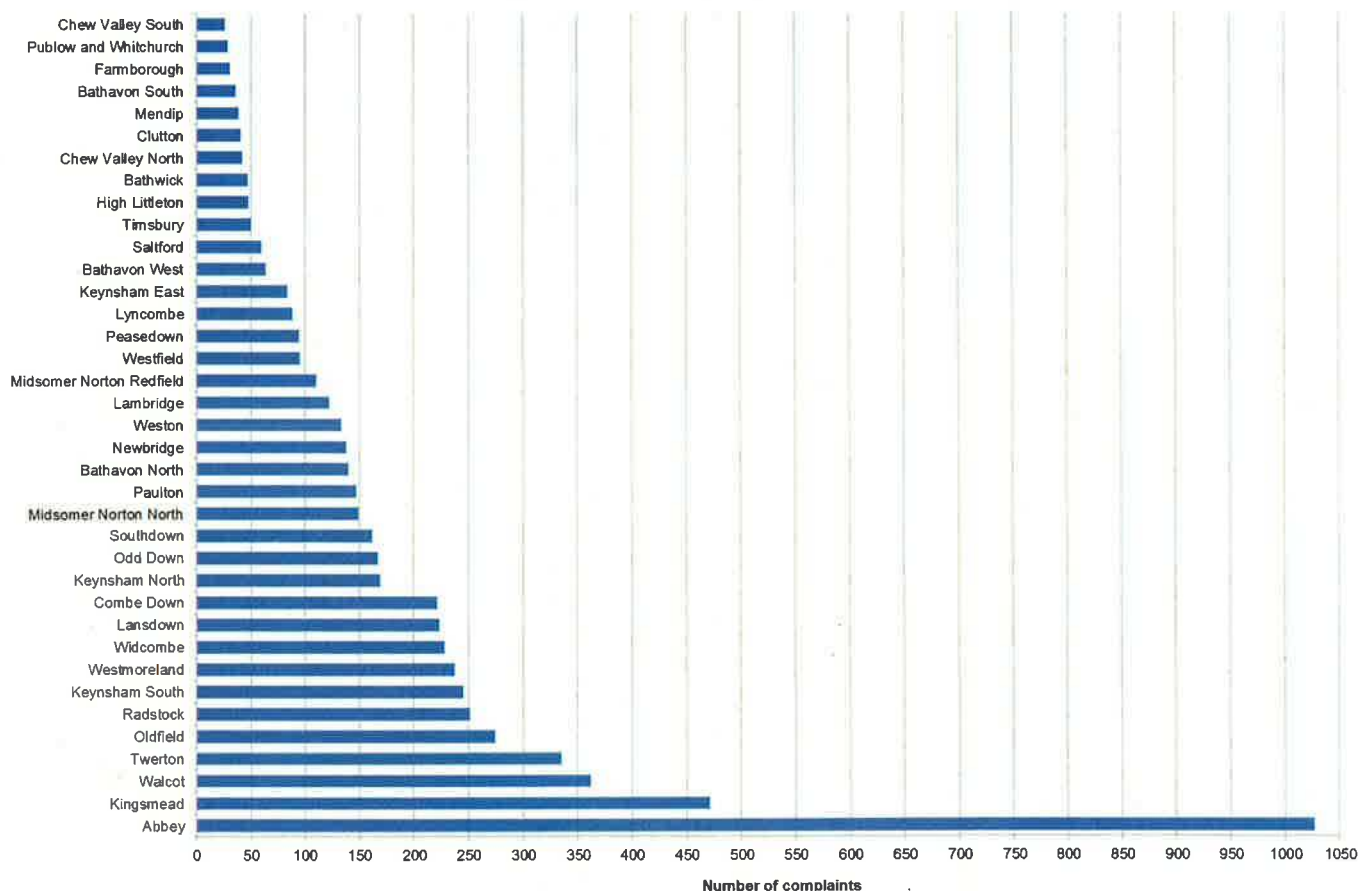


Figure 20: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – By ward of location being complained about

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Unsurprisingly, because Abbey is in Bath city centre the greatest proportion of complaints were made about entertainment premises such as pubs and clubs (47%), followed by domestic dwellings (37%), a significant proportion was also made about noise on the street (15%).

In contrast, in terms of the types of complaints made about locations in the other three wards that had the most recorded noise complaints made about them, complaints about domestic dwellings made up the greatest proportion of complaints:

- Kingsmead, 73%
- Walcot, 86%
- and Twerton, 91%

This is followed by complaints made about entertainment premises such as pubs and clubs:

- Kingsmead, 20%
- Walcot, 10%
- Twerton, 7%

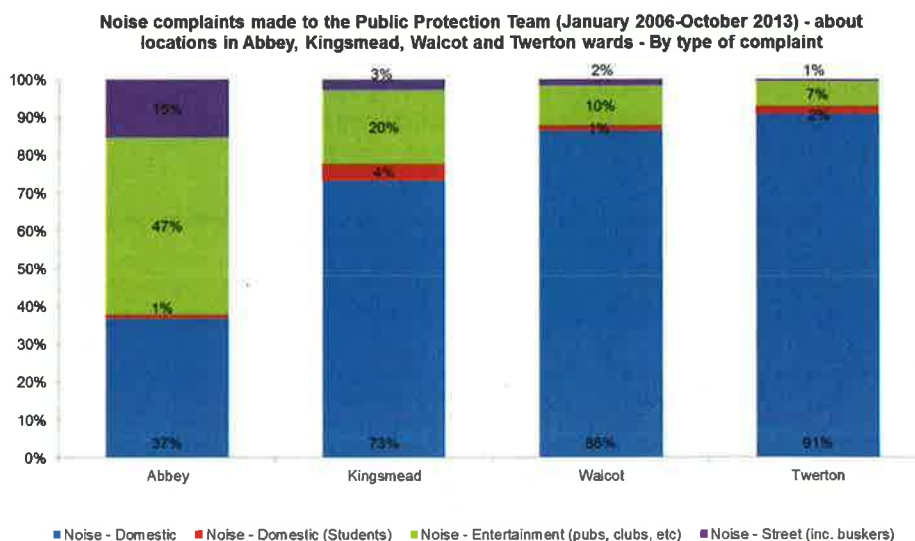


Figure 21: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – about locations in Abbey, Kingsmead, Walcot and Twerton wards – By type of complaint

Wards of complainant addresses

During the period between January 2006 and October 2013, noise complainants came from 36 recorded wards. The wards of complainant that made the greatest number of complaints were:

- Abbey with 1177 complaints, making up 15% of all complaints,
- followed by Kingsmead with 497, 6%,
- Walcot with 365, 5%,
- Twerton with 343, 4%,
- and Oldfield with 292, 4%.

The remaining recorded wards of complainants each made up 3% or less of complaints. It is though worth noting that no postcode was recorded for 15% of complaints (1767) and so we are not able to identify these wards.

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The distribution of ward of complainant is very similar to that of the locations that noise complaints were made about, thus indicating that most complainants made noise complaints about locations within their wards of residence, this reflects the fact that a considerable proportion of complaints were made about noise from domestic dwellings.

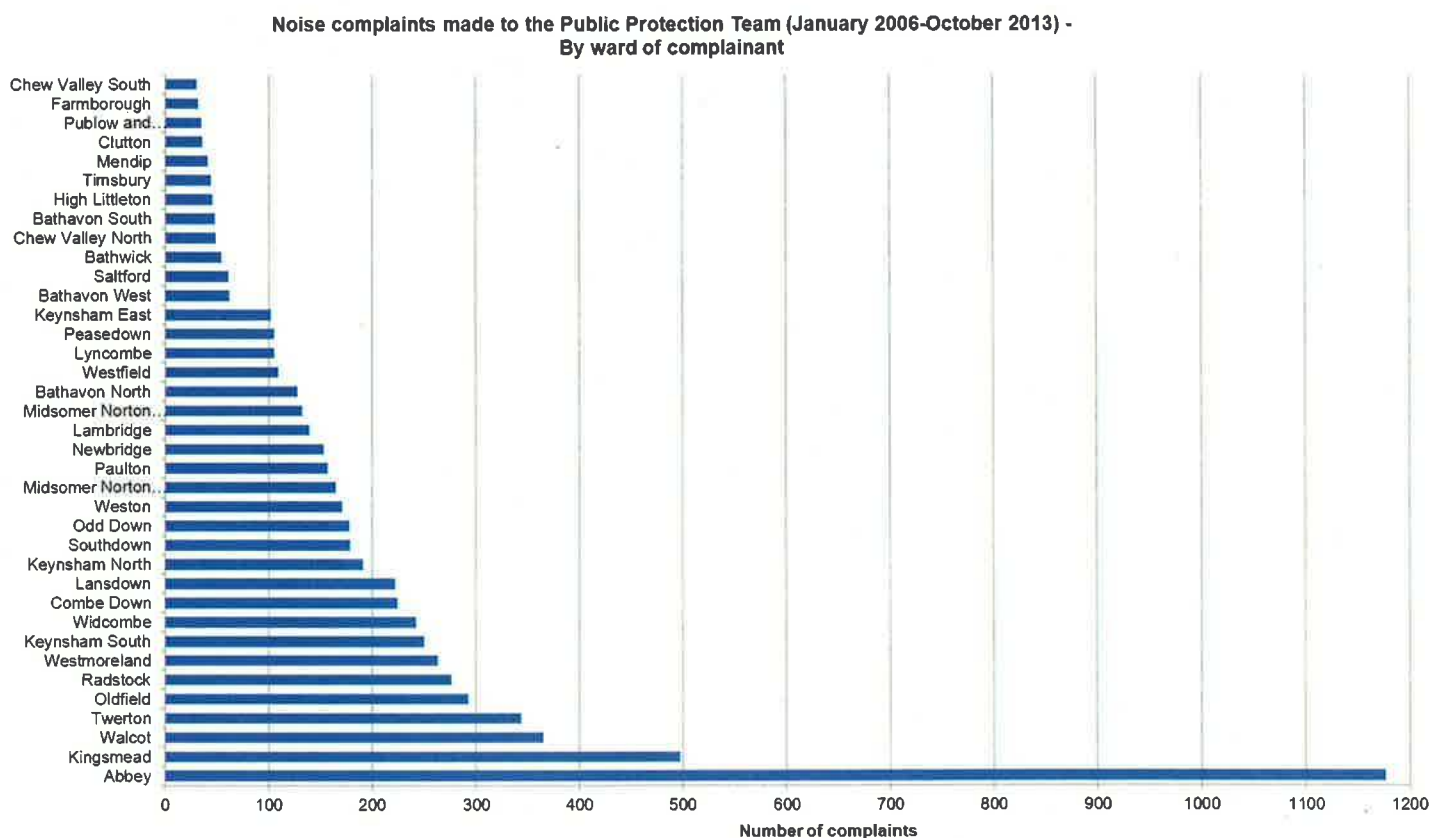


Figure 22: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – By ward of complainant

Again unsurprisingly in Abbey the greatest proportion of complaints were made about entertainment premises such as pubs and clubs (34%), very closely followed by domestic dwellings (33%), and noise on the street (33%).

In terms of the types of complaints from the other wards of complainant address from which the greatest number of noise complaints came from, domestic dwellings made up the greatest proportion of the complaints:

- Kingsmead, 71%
- Walcot, 84%
- Twerton, 92%

These were followed by complaints made about entertainment premises such as pubs and clubs:

- 18% in Kingsmead,
- 10% in Walcot,
- 5% in Twerton
- and 8% in Oldfield.

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Complaints by month

During the seven year period between 2006 and 2012, the months when the Public Protection Team received the highest number of noise complaints were the summer months of June with 779, July with 800 and August with 794, each accounting for 11% of all complaints. These months were followed by those of spring and autumn, with the lowest number of complaints in the winter months January, February, November and December, each with fewer than 500 complaints, and each, making up between 7-5% of all complaints

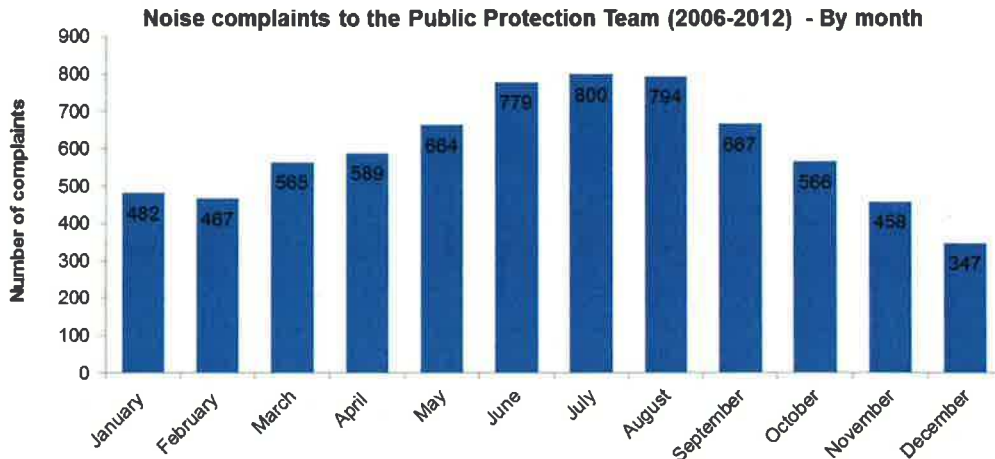


Figure 23: Noise complaints made to the Public Protection Team in B&NES (2006-2012) – By month

Trends overtime

Between January 2006 and October 2013, the average number of noise complaints each month decreased by 13%, from an average of 90 complaints a month in 2006, to an average of 78 per month in 2013. This decline though maybe linked to the changes in recording practices that occurred during this period.

The number of complaints in 2006 was 1,076, compared to 867 in 2012 (2013 is an incomplete year), this represents a 19% decline in the number of complaints. The numbers of complaints remained above 1,000 per year until 2011, and since then they continued to stay below 868 per year.

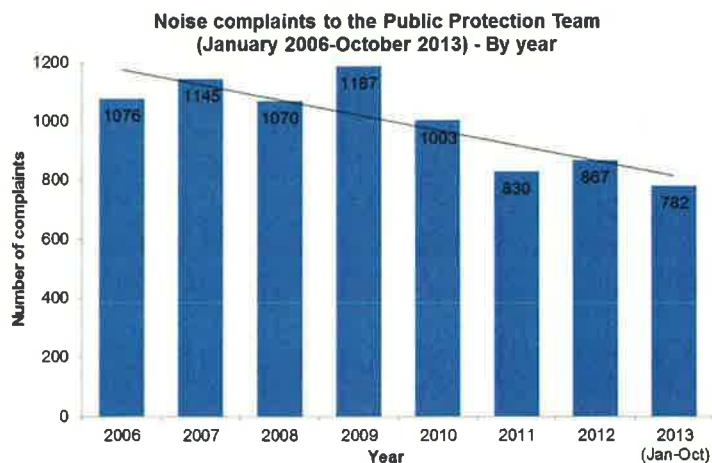


Figure 24: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – By year

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Trends overtime – Types of complaints

During the period January 2006 to October 2013, noise complaints about domestic dwellings continued to make up the greatest proportion of complaints. Apart from a marked reduction in the proportion of complaints these make up in 2013 to 49%, between 2006-2012 they made up 61%-71% of the complaints. However, the overall numbers of noise complaints about domestic dwellings between 2006 and 2012 (2013 is an incomplete year) decreased, in 2006 it was 732, compared to 529 in 2012, this represents a 28% decline in the number of complaints.

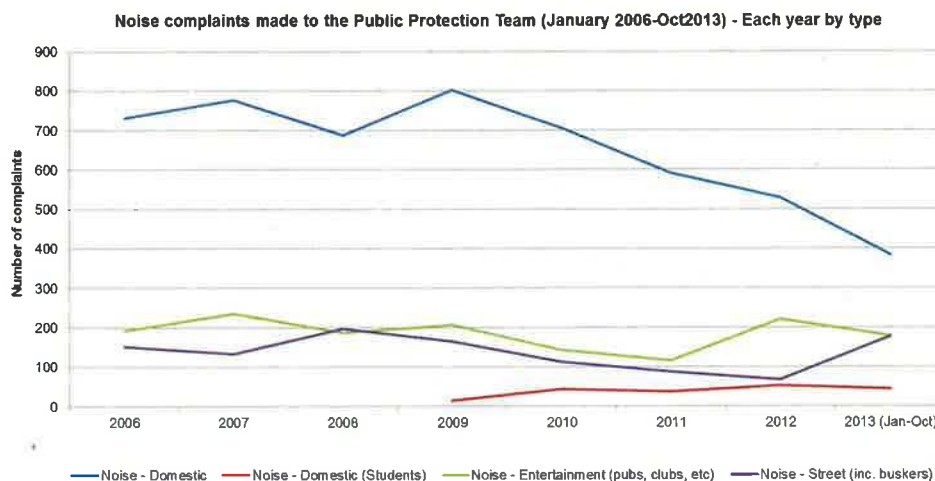


Figure 25: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – Each year by type

Throughout this period noise complaints about places of entertainment such as pubs and clubs made up the second greatest proportion of complaints (jointly second with complaints about street noise in 2013). Numbers of these complaints remained fairly stable during these years, fluctuating between the greatest number in 2007 with 236 complaints, and the lowest number in 2012 with 115 complaints. These complaints made up the greatest proportion in 2012 with 25%, and the lowest proportion in 2010 and 2011 with 14%.

These complaints are closely followed by the numbers of complaints about street noise, which also remained fairly stable, fluctuating between the highest number in 2008 with 196 complaints and the lowest number in 2012 with 66 complaints. These complaints made up the greatest proportion in 2013 with 23%, and the lowest proportion in 2012 with 8%.

Lastly, complaints about noise from students does not seem to have been recorded as a separate category until 2009, whereby it only made up 1% of the complaints with 14, numbers of these complaints after an initial rise to 43 in 2010, have remained between 52 and 36, 6-4%.

Trends overtime – How complaints were received

Throughout the period January 2006 to October 2013, the greatest proportion of noise complaints were received via telephone and/ or through the Emergency/Out of Hours Service. The proportion of complaints received via telephone remained between 40-44% from 2006 to 2011, however since then the proportion has declined to 27% in 2012, and 31% in 2013. This reflects a reduction in the numbers of

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complaints received by phone which have decreased by 51% from 477 in 2006 to 232 in 2012 (2013 is an incomplete year).

The proportion of complaints received by the Emergency/Out of Hours Service remained between 33-43% from 2006 to 2012, however in 2013 this proportion has declined to 29%. This reflects a distinct 38% reduction in the numbers of complaints received by the Out of Hours Service between the peak in 2009 with 511 complaints, to 315 complaints in 2012.

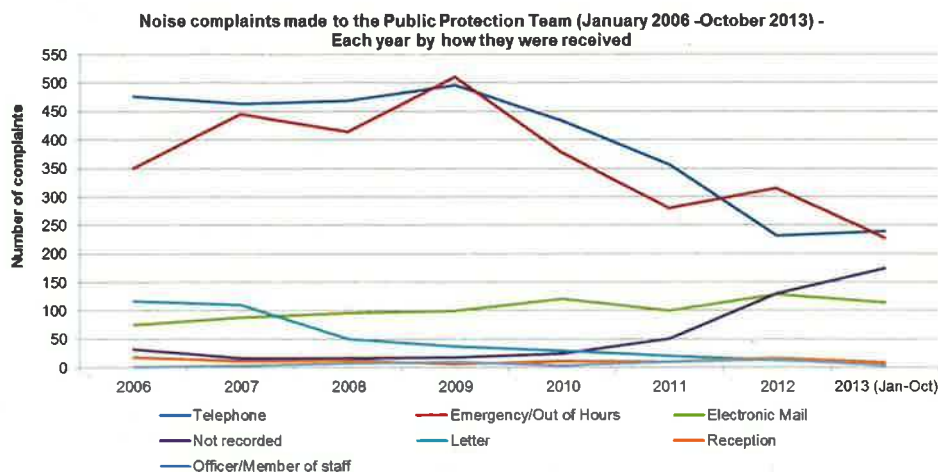


Figure 26: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – Each year by how they were received

The proportion of complaints received via email has increased from between 7-9% in 2006-2009, and to 12-15% in 2010-2013. This reflects a rise in the numbers of complaints received by email which have increased by 71% from 75 in 2006 to 128 in 2012.

In comparison, the proportion of complaints received via letter has decreased from between 10-11% in 2006-2007, to 5-1% in 2008-2013. This reflects a decline in the numbers of complaints received by letter which have decreased by 89% from 117 in 2006 to 13 in 2012. All the other methods of communication made up 2% or less during this period.

Lastly, it is worth noting that the proportion and number of complaints where no method of complaint has been recorded increased considerably from 51 in 2011 (6%) to 130 in 2012 (15%), and has remind high in 2013 with 174 complaints, making up 22%.

Trends overtime - Wards of addresses being complained about

Throughout the period 2006 to 2012 the greatest number of noise complaints were about locations in Abbey, these peaked in 2009 with 179, making up 16% of all complaints, and the lowest number of these were in 2007 with 105, 9%.

The wards with the second, third and fourth greatest number of noise complaints made about them, Kingsmead, Walcot and Twerton fluctuated with similar numbers, between 72-19 complaints, making up between 7%-2% each. On average, Kingsmead had the greatest number of complaints each year with 59, followed by Walcot with 45, and Twerton with 42.

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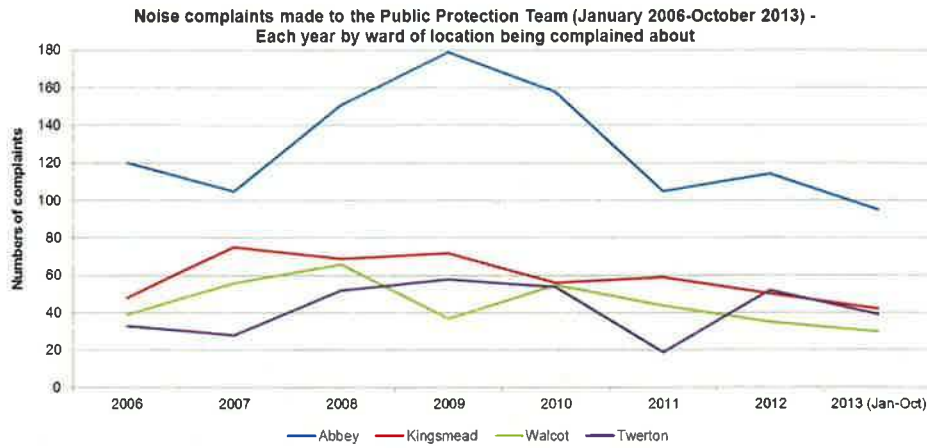


Figure 27: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – Each year by ward of location being complained about

Trends overtime - Wards of complainant addresses

Throughout the period 2006 to 2012 the greatest number of noise complaints came from complainants in Abbey, these peaked in 2009 with 203, making up 17% of all complaints, and the lowest number of these were in 2006 with 115, 11%. However, the numbers and proportion have increased since then, with 159 (20%) complaints being made from complainants from Abbey even in the incomplete year of January to October 2013.

During this period the wards with the second, third, fourth and fifth greatest number of noise complaints made about them, Kingsmead, Walcot, Twerton and Oldfield fluctuated with similar numbers, between 73-19 complaints, making up between 8%-2% each. On average, Kingsmead had the greatest number of complaints each year with 62, followed by Walcot with 46, Twerton with 43, and Oldfield with 37.

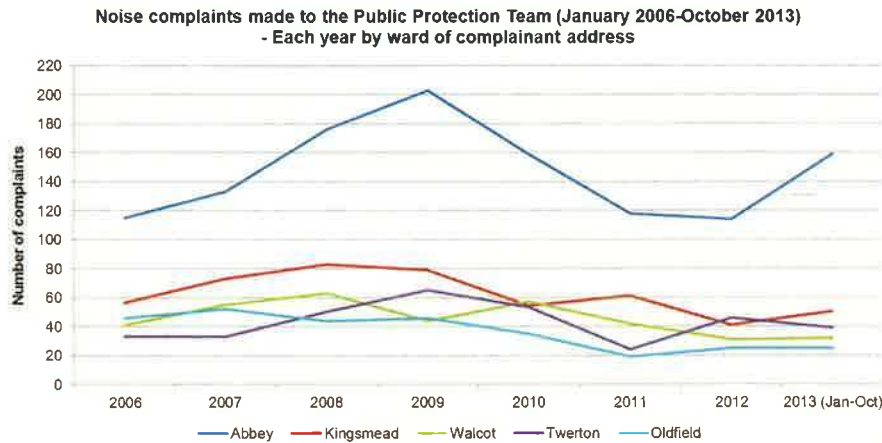


Figure 28: Noise complaints made to the Public Protection Team in B&NES (January 2006-October 2013) – Each year by ward of complainant address

Records from the Street Marshals and Medics in Bath ⁶

There are three groups of Street Marshals and Medics working in the evenings in Bath, those patrolling the city centre, and those located at the Kingsmead and Orange Grove Taxi Ranks. Apart from two weeks in December 2012 when the Marshals and Medics worked an extra evening on the Monday patrolling Bath city centre and at the Orange Grove Taxi Rank, during the year August 2012 to July 2013

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they worked on Fridays and Saturdays at these two sites, and in addition at Orange Grove Taxi Rank, on Thursdays as well. There are only records of the Street Marshals and Medics working on Fridays and Saturday evenings at the Kingsmead Taxi Rank for four months in 2012, August to November.

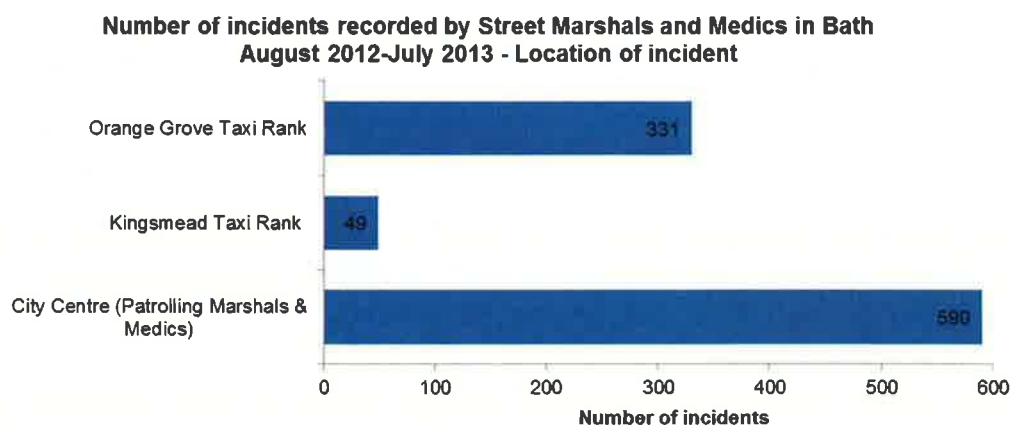


Figure 29: Numbers of incidents recorded by Street Marshals and Medics in Bath (August 2012-July 2013) – By location of incident

Marshals and the hours they worked

During this year each night there was an average of 4 Marshals/Medics patrolling the City Centre, working on average 18 hours a night. Each night there was also on average of 2 Marshals/Medics working at the Orange Grove Taxi Rank, an average of 9 hours, and for each night during the four month period 2 Marshals/Medics worked at the Kingsmead Taxi Rank for 8 hours each night.

Incidents

On these evenings during this year the Street Marshals and Medics in Bath, recorded 970 incidents. This is an average of 19 incidents recorded on these days each week during this period. These incidents either relate to accidents or anti-social and/or criminal behaviour and were distributed accordingly:

- Marshals and Medics patrolling Bath city centre, 60%, 590 incidents (an average of 11 each week)
- Orange Grove Taxi Rank, 34%, 331 incidents (an average of 6 each week)
- Kingsmead Taxi Rank, 5%, 49 recorded incidents (an average of less than 5 incidents each week during the four month period).

For the nights patrolled by the Marshals and Medics during this year 82,303 people used the Orange Grove Taxi Rank (an average of 1,583 people for the three days), which meant only 0.4% of users were recorded to have caused or experienced an incident.

For the four months August to November 2012 for the two nights a week patrolled by the Marshals and Medics, 6,244 people were recorded to have used the Kingsmead Taxi Rank (an average of 120 people for the two days), which meant only 0.8% of users were recorded to have caused or experienced an incident.

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Days incidents occurred

Out of the 854 incidents recorded by the Street Marshals and Medics during the year August 2012 to July 2013 at all three sites on a Friday and Saturday, 507 occurred on a Saturday, 59%, and 347 on a Friday, 41%. These are broken down by location in the graph below.

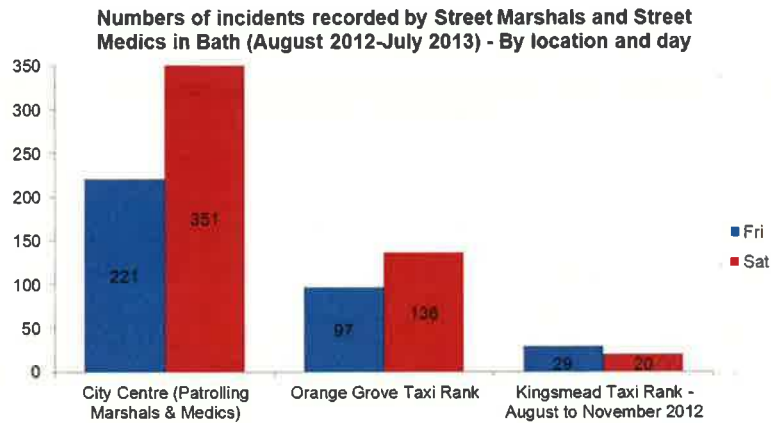


Figure 30: Numbers of incidents recorded by Street Marshals and Medics in Bath (August 2012-July 2013) – By location and day

During this period:

- 93 incidents were also recorded as occurring on a Thursday at the Orange Grove Taxi Rank,
- 18 were recorded by the City Centre patrols on the two Mondays in December (24th and 31st December)
- 5 incidents were recorded on the same two Mondays at the Orange Grove Taxi Rank.

Type of incidents

According to the Street Marshals and Medics, out of the 907 incidents they recorded in Bath between August 2012 and July 2013, there were 161 occurrences that required police attendances, 17% of incidents, but there were also 809 occurrences, 83% of incidents that through their actions they were able to prevent the need for police. The Street Medics and Marshals also recorded that during this period 220 occurrences, 23% were medical incidents, and that their interventions were able to prevent the need for an ambulance in 154 cases, 16% of incidents.

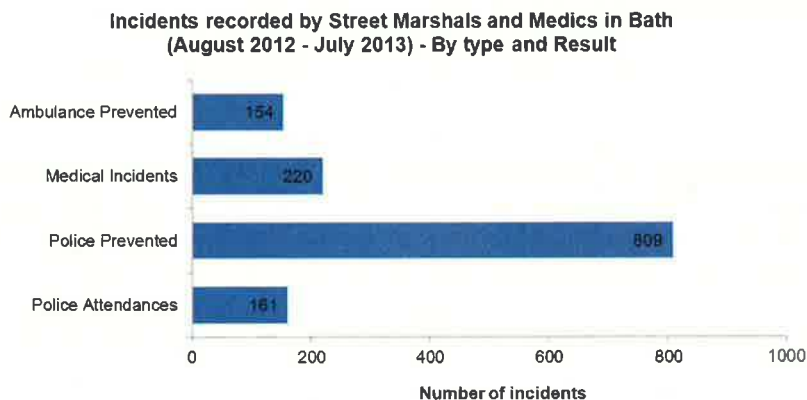


Figure 31: Numbers of incidents recorded by Street Marshals and Medics in Bath (August 2012-July 2013) – By type and result

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Trends overtime – Number of Orange Grove Taxi Rank Users

According to the records from the Street Marshals and Medics between August 2012 and July 2013, the average number of users of the Orange Grove Taxi Rank for the three day period of Thursday, Friday and Saturday, has decreased by 34% from an average of 2,049 in first ten weeks (2012), to an average of 1,352 in the last ten weeks (2013).

Number of users per week (Thurs, Fri & Sat) of the Orange Grove Taxi Rank as recorded by the street Marshals and Medics (August 2012 - July 2013)

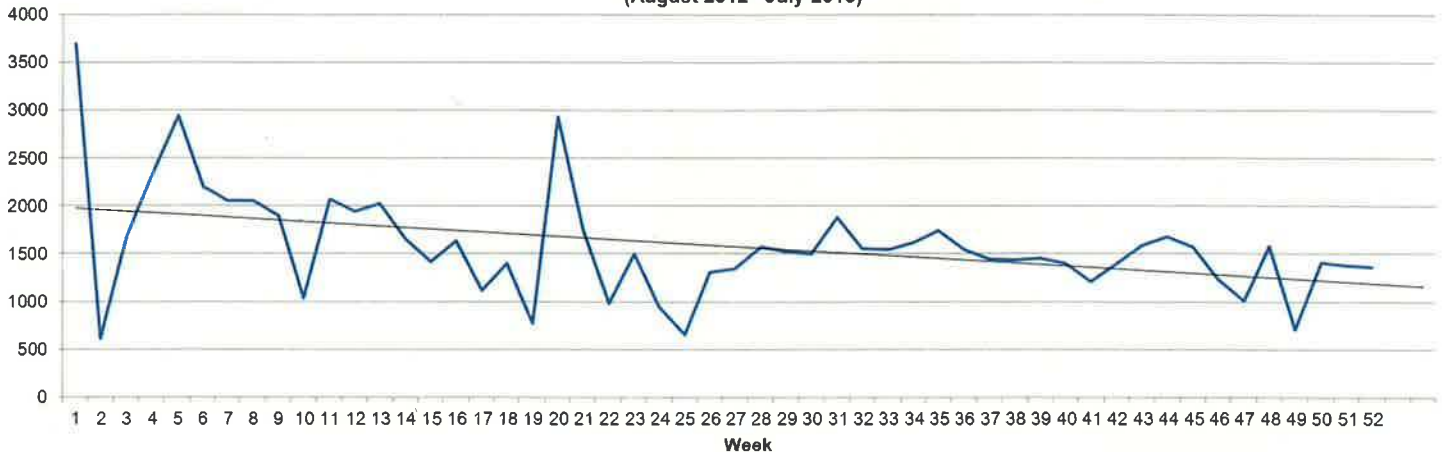


Figure 32: Numbers of users per week (Thurs, Fri & Sat) of the Orange Grove Taxi Rank as recorded by the Street Marshals and Medics in Bath (August 2012-July 2013)

Trends overtime – Number of incidents – Bath City Centre and Orange Grove Taxi Rank

During the year August 2012 to July 2013, there was virtually no change in the average number of incidents recorded per week (Fri & Sat) by Street Marshals and Medics patrolling Bath city centre, with an average of 11 incidents per week in the first ten weeks (2012), and an average of 12 in the last ten weeks (2013).

However, the average number of incidents recorded per week (Thurs, Fri & Sat) by Street Marshals and Medics at the Orange Grove Taxi Rank decreased from 9 in the first ten weeks to 5 in the last ten weeks, though this may reflect the decrease in users of the taxi rank during this period.

Trends overtime – Days of incidents - Bath City Centre and Orange Grove Taxi Rank

In terms of the distribution of the incidents as recorded by the Street Marshals and Medics patrolling Bath city centre over the two days of Friday, and Saturday during the year August 2012 to July 2013, the proportion of incidents occurring on a Saturday increased from an average of 58% in the first ten weeks (2012), to 71% in the last ten weeks (2013). Therefore, conversely the average proportion on a Friday decreased from 42% in the first ten weeks, to an average of 29% in the last ten weeks.

During the same year, the distribution of the incidents as recorded by the Street Marshals and Medics at the Orange Grove Taxi Rank over the three days of Thursday, Friday, and Saturday, remained roughly the same for the proportion of

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incidents occurring on a Saturday, with an average of 33% in the weeks 4-13 (first ten weeks when marshals are working on Thursdays) and 32% in the last 10 weeks.

The average proportion on a Friday decreased from an average of 41% in the weeks 4-13, to an average of 22% in the last ten weeks. Thus, conversely the average proportion recorded to have occurred on a Thursday increased from 26% in the weeks 4-13, to an average of 47% in the last ten weeks.

Trends overtime – Types of incidents - Bath City Centre and Orange Grove Taxi Rank

According to the records kept by the Street Marshals and Medics patrolling Bath city centre and at the Orange Grove Taxi Rank between August 2012 and July 2013, there has been no significant changes over time in the number or proportion of occurrences that required police attendances, where actions had prevented the need for police, or those that were medical incidents, or where interventions were able to prevent the need for an ambulance.

Voicebox Residents Survey

The large scale Voicebox Resident Survey aims to provide an insight into the Bath and North East Somerset and its local communities and to capture resident's views on their local area and council services. The questionnaires are posted to 3,150 addresses selected randomly in the local authority area. Selected respondents also have the opportunity to complete the survey online.

***Bath City Centre at Night*^{7 8}**

The Voicebox Surveys carried out in 2012 and 2013 asked a couple of questions relating to Bath City Centre at night. In 2012 a total 850 residents completed the questionnaire between the 23rd November 2012 and the 11th January 2013; a response rate of 27%. In 2013 a total 1,189 residents completed the questionnaire between the 25th November 2013 and the 18th January 2014; a response rate of 38%.

It is important to bear in mind that different weighting was used in 2012 and 2013. In 2012 the results were weighted by gender, employment and tenure, whereas in 2013 the results were weighted by age and gender. Weighting of results are done to better reflect the demographics of the area.

The results to the question – How often do you visit Bath City Centre after 5pm? – are very similar for 2012 and 2013.

Respondents that said they visit Bath City Centre after 5pm once a week or more frequently:

- 2012 – 29%
- 2013 – 31%

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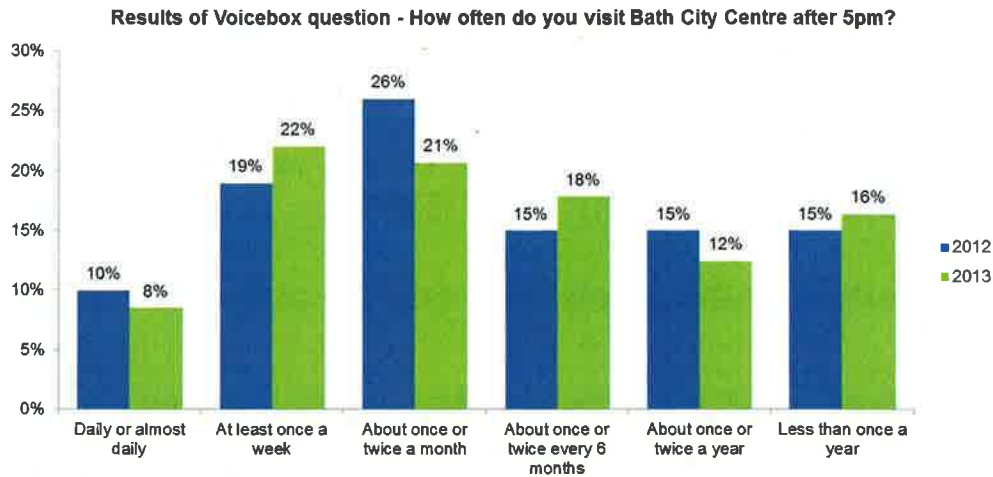


Figure 34: Results of the Voicebox question – How often do you visit Bath City Centre after 5pm? (2012 and 2013)

When respondents were asked how safe they felt at various times of night in 2012 and 2013, the results indicate that respondents feel less safe as the night goes on. Nevertheless, there were more respondents that felt safe between each of those times than those respondents who did not feel safe.

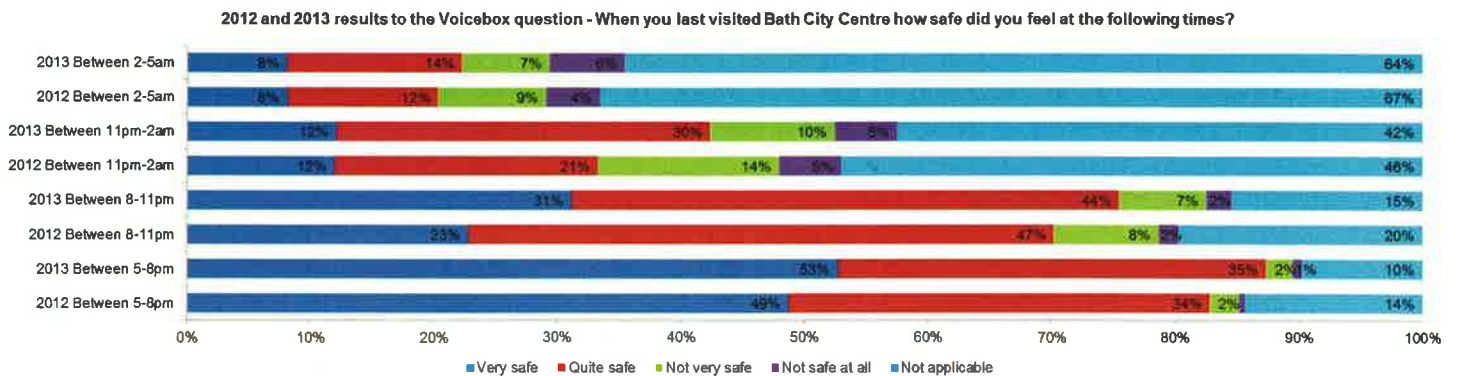


Figure 35: Results of the Voicebox question – When you last visited Bath City Centre how safe did you feel at the following times? (2012 and 2013)

As Table 6 shows, comparing the results of the 2012 and 2013 Voicebox surveys suggests that between 2012 and 2013, for all times of the night there has been an increase in the proportion of B&NES residents who feel very or quite safe.

Annex C

Table 6: Results of the Voicebox question – When you last visited Bath City Centre how safe did you feel at the following times? (2012 and 2013)

	Between 5-8pm		Between 8-11pm		Between 11pm-2am		Between 2-5am	
	2012	2013	2012	2013	2012	2013	2012	2013
Very or quite safe	83%	87%	70%	75%	33%	42%	20%	22%
Not very safe or not safe at all	3%	3%	10%	9%	19%	15%	13%	13%

Drunk and Rowdy Behaviour ^{910 11}

When asked in 2009, 2010, and 2012 about drunk and rowdy behaviour in public places in their local area:

- In 2012 only 7% of respondents believed that it was a very big problem, this a reduction when compared to 2010 (9%) and 2009 (11%).
- There has also been a decline in those that stated that it was a fairly big problem, 14% in 2012, compared to 20% in 2010 and 2009.
- This means that there has been a significant decrease in the proportion of respondents that believe that drunk and rowdy behaviour is a very big or fairly big problem, 21% in 2012, compared to 29% in 2010 and 31% in 2009.
- The most common response in 2012 was that this behaviour was not a very big problem (47%), this is an increase from 2010 (34%) and 2009 (42%).

Although most did not believe drunk and rowdy behaviour to be a very big problem, these respondents were nevertheless indicating that they thought drunk and rowdy behaviour was a small problem. Therefore, when combining responses in 2012, 72% of respondents did indicate that they thought this behaviour was, to some extent, a problem in their area. However, in 2012 the proportion of respondents who stated that this behaviour is not a problem at all was quite high, at 28%.

Thinking about your local area, how much of a problem do you think drunk and rowdy behaviour is?

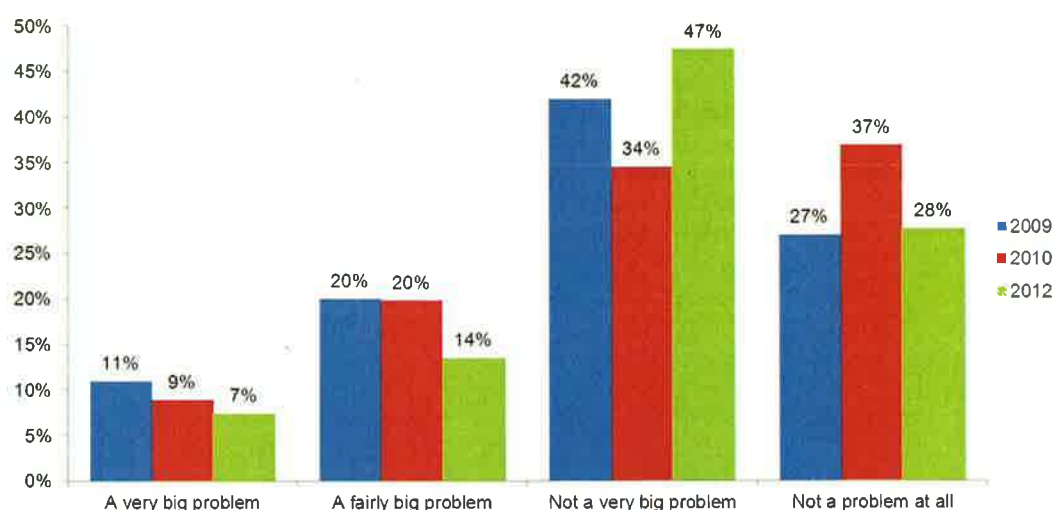


Figure 36: Results of the Voicebox question – Thinking about your local area, how much of a problem do you think drunk and rowdy behaviour is? (2009, 2010 and 2012)

Annex C

*Purple Flag Award*¹²

The Purple Flag Award is a national award which recognises cities that are safe and enjoyable places for a night out. The Voicebox Survey carried out in 2013 asked a couple of questions relating to the Purple Flag Award.

When respondents were asked whether they knew about the purple flag award:

- Less than 1% said they knew a lot about it
- 5% stated they knew a bit about it
- 14% said they had heard of it but knew very little about it
- 81% stated that they had never heard of it

When respondents were asked whether they knew that Bath has Purple Flag Status, only 6% stated that they did know, whereas 94% said that they did not.

¹ Urry N (2013) In-house analysis of data from Police Aspire database, Crimes (violence against the person and criminal damage) linked to the Night Time Economy (8pm – 4am) in Bath and North East Somerset between 2008-February 2013, Research and Intelligence Team, Bath and North East Somerset Council

² Cripps H (30/08/13) Email correspondence from Helen Cripps, Continuous Improvement Officer from Bath Police Station concerning B&NES Drink Driving data – 2010/11-2012/13

³ Urry N (2013) In-house analysis of data from Uniform database, Details of licensing activities - Current licenses and complaints data 2010 – 2013, Licensing Team, Bath and North East Somerset Council

⁴ Urry N (2013) In-house analysis of data from Uniform database, Details of licensing activities - Current licenses and complaints data 2010 – 2013, Licensing Team, Bath and North East Somerset Council

⁵ Urry N (2013) In-house analysis of Noise Complaints, Public Protection Team Service Requests 2006- October 2013, Public Protection Team, Bath and North East Somerset Council

⁶ Urry N (2013) In-house analysis, Monitoring data – Bath BID Street Marshals and Medics Weekly report data August 2012-July 2013, Safe and Sound

⁷ RMG Clarity (2013) Voicebox 21 Resident Survey, Bath City Centre Report, Bath and North East Somerset Council – November 2012 – January 2013

⁸ Marketing Means (2014) Voicebox 22 Resident Survey, Results weighted by Age and Gender, Bath and North East Somerset Council – November 2013 – January 2014

⁹ RMG Clarity (2013) Voicebox 21 Resident Survey, Community Engagement Report, Bath and North East Somerset Council – November 2012 – January 2013

¹⁰ Wyman Dillon (2010) Voicebox 17 Resident Survey Weighted Headline Results, Bath and North East Somerset Council – March 2010 – May 2010

¹¹ Marketing Means (2009) Voicebox 15 Resident Survey Weighted Headlines, Bath and North East Somerset Council – March 2009 – June 2009

¹² Marketing Means (2014) Voicebox 22 Resident Survey, Results weighted by Age and Gender, Bath and North East Somerset Council – November 2013 – January 2014

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Licensing Committee	
MEETING/ DECISION DATE:	6th October 2014	
TITLE:	Review of the Council's Street Trading Policy, conditions and guidance	
WARD:	All	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Annex A- Copy of the responses to the consultation exercise on the proposed revised Street Trading Policy, conditions and new guidance</p> <p>Annex B- Copy of the proposed Street Trading Policy, conditions and new guidance including amendments (in red)</p> <p>Annex C- Copy of the current Street Trading Policy</p>		

1 THE ISSUE

1.1 To review the Council's street trading policy which was last updated in 2010.

1.2 This report brings the findings of the consultation exercise carried out on the proposed revision of the Council's Street Trading policy, conditions and new guidance and this report asks the Licensing Committee to note the comments received and to approve the officers recommendations prior to the revised policy, conditions and guidance being presented to Cabinet in November 2014 for adoption.

2 RECOMMENDATION

2.1 The Licensing Committee is asked to note the comments received from the consultation exercise and to accept the officer recommendations set out in Annex B.

2.2 The Licensing Committee are asked to recommend that the revised policy, conditions and guidance provided at Annex B, is presented to Cabinet at its meeting on 13th November 2014, with a recommendation that the policy is adopted.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 Finance and Property: The revised policy proposes that there will be a preferred set of standards for the design and appearance of stalls and compliance is expected from all street trading pitches. Stalls within the main shopping area of Bath will be expected to use a particular design in recognition of the importance of this area and the world heritage status of the city. This area will include the central spine of Milsom Street down through Union Street, Stall Street and Southgate Street in addition to other popular areas such as Kingsmead Square, Sawclose and Terrace Walk.
- 3.2 It is proposed that all new applicants will be required to adopt the new standards from when they are granted a street trading pitch; existing pitches will be required to upgrade their units by 1st January 2017. To assist both existing applicants and new street traders, the Council has produced guidance notes which identify the types of stalls and standards of quality and design which would achieve compliance. In anticipation of this change, the Council has already been working with existing street traders to help them upgrade their units. For both existing and new traders, the Council intends to purchase a number of units which could then be rented to the trader on a cost recovery basis for the period that they have a street trading consent. This prevents the trader from paying a large, upfront cost to help them with their business from the outset. The unit would remain the property of the Council but be retained by the trader during the period of time that they retain the street trading consent. The trader would also be responsible for insuring the unit against theft and/or damage.
- 3.3 The cost of the units is expected to be under £10k in total, which would be found from within existing Licensing revenue budgets in 2014/15 or 2015/16. The annual anticipated total rental income from the units is likely to be c£3k until such time as the cost of each unit has been recovered. Thereafter there maybe a small charge to traders to cover the ongoing cost of repairs and maintenance of the units. This will be structured such that there is no surplus or deficit to the Council.
- 3.4 All fees charged in respect of street trading will remain on a cost recovery basis.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The basis for this report stems from a need for the Council to review its street trading policy and ensure that it remains up to date. The Council is keen that this revision of its Street Trading Policy emphasises the importance of street trading to both the local environment and local economy and the role it plays in helping small businesses to establish and grow
- 4.2 All streets in Bath and North East Somerset are designated as 'consent streets'. The effect of this is that, with certain exceptions, selling, exposing, or offering for sale any article in a street requires a street trading consent issued by the Council. Persons trading without a consent are liable to prosecution for an offence and if convicted can be fined up to level 3 on the standard scale, currently £1000.
- 4.3 Street Trading consents are issued under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Paragraph 7 provides that:

- (1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.
- (2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.
- (3) A street trading consent shall not be granted-
 - (a) to a person under the age of 17 years; or
 - (b) for any trading in a highway to which a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- (4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- (5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent-
 - (a) obstruction of the street or danger to persons using it; or
 - (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (6) The council may at any time vary the conditions of a street trading consent.
- (7) Subject to sub paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (8) The council may include in a street trading consent permission for its holder to trade in a consent street-
 - (a) from a stationary van, cart, barrow or other vehicle; or
 - (b) from a portable stall.
- (9) If they include such a permission, they may make the consent subject to conditions-
 - (a) as to where the holder of the street trading consent may trade by virtue of the permission; and
 - (b) as to the times between which or periods for which he may so trade.
- (10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

4.4 When granting or renewing a street trading consent, the Council may attach such conditions to it as they consider reasonably necessary.

4.5 A copy of the Council's current Street Trading Policy and Conditions is produced at Annex C.

5 THE REPORT

5.1 The Council have completed a twelve week consultation on the review of its Street Trading policy, conditions and new guidance for stalls. This report brings to the committee the findings of the consultation together with officer comments and recommendations. Copies of the comments received are provided in Annex A.

5.2 A copy of the amended Street Trading policy conditions and guidance, which includes the officer recommendations, is provided in Annex B.

5.3 The Licensing Committee are now being asked to note the comments received from the consultation exercise; to note the officer comments, to approve the officers recommendations and that the revised policy, conditions and guidance is presented to Cabinet at their meeting on the 13th November 2014 with a recommendation that the revised policy and conditions are adopted.

6 RATIONALE

6.1 The rationale for this report stems from a need on the Council to review its Street Trading policy.

7 OTHER OPTIONS CONSIDERED

7.1 Advice has been sought from the Council's Legal Services and the Council's Monitoring Officer (Council Solicitor), and Section 151 Officer (Resources director) have had the opportunity to input to this report and have cleared it for publication.

8 CONSULTATION

8.1 The consultation included the persons listed below:

- The chief officer of police for the area;
- All Ward Councillors, Town Councils and Parish Councils
- Existing Street Traders
- Visitors to Bath City Conference
- Student Community Partnership
- Night Time Economy Group

8.2 In addition a stakeholder workshop was held on 23rd July 2014 which was attended by street traders, the Bath Improvement District, Council Officers and Councillors. Presentations were delivered by Sark Kenny, a street trader in Bath, David Dixon, the Council's Stronger Communities Manager and Andrew Cooper from the Bath Improvement District. Approximately 30 people attended and feedback indicated that 67% of those attending confirmed the workshop fully met their needs.

8.3 This report has not been sent to the Trades Unions because there are no staffing issues.

9 RISK MANAGEMENT

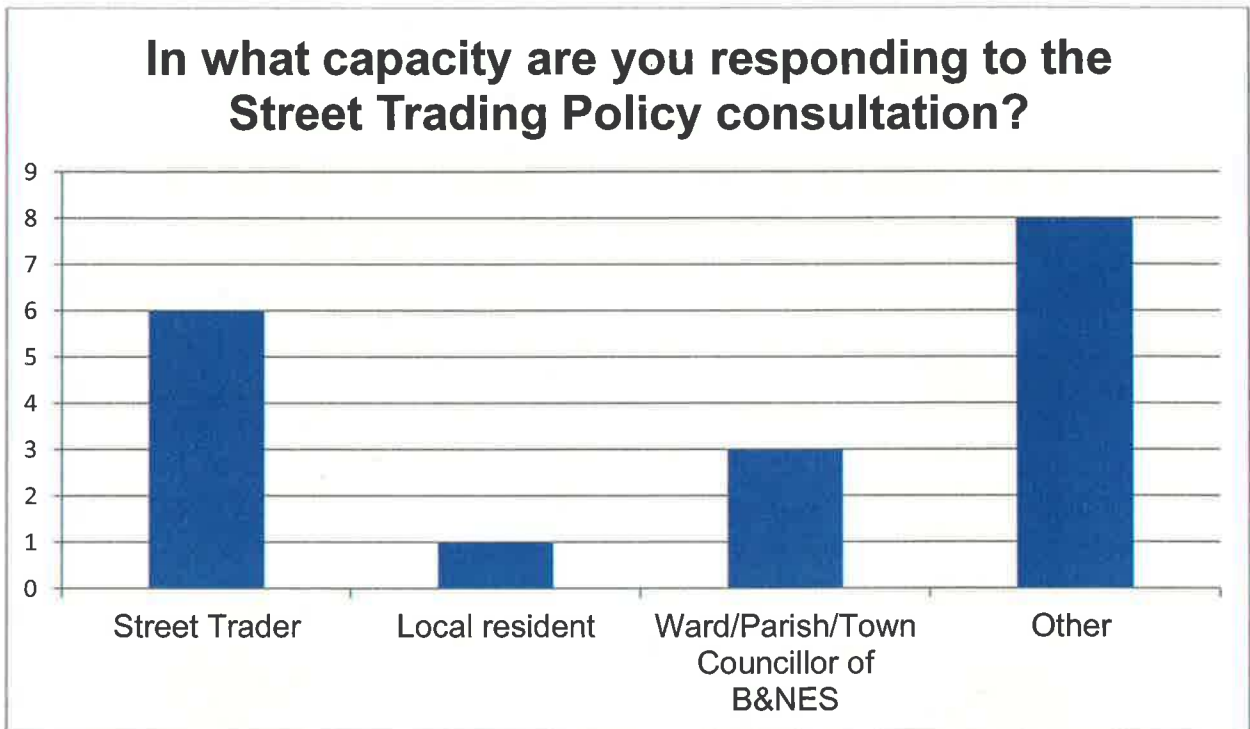
9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Cathryn Humphries, Licensing and Environmental Protection Manager (01225 477645)</i>
Background papers	<i>Local Government (Miscellaneous Provisions) Act 1982</i>
Please contact the report author if you need to access this report in an alternative format	

Annex A- Street Trading Policy 2014 Consultation Responses

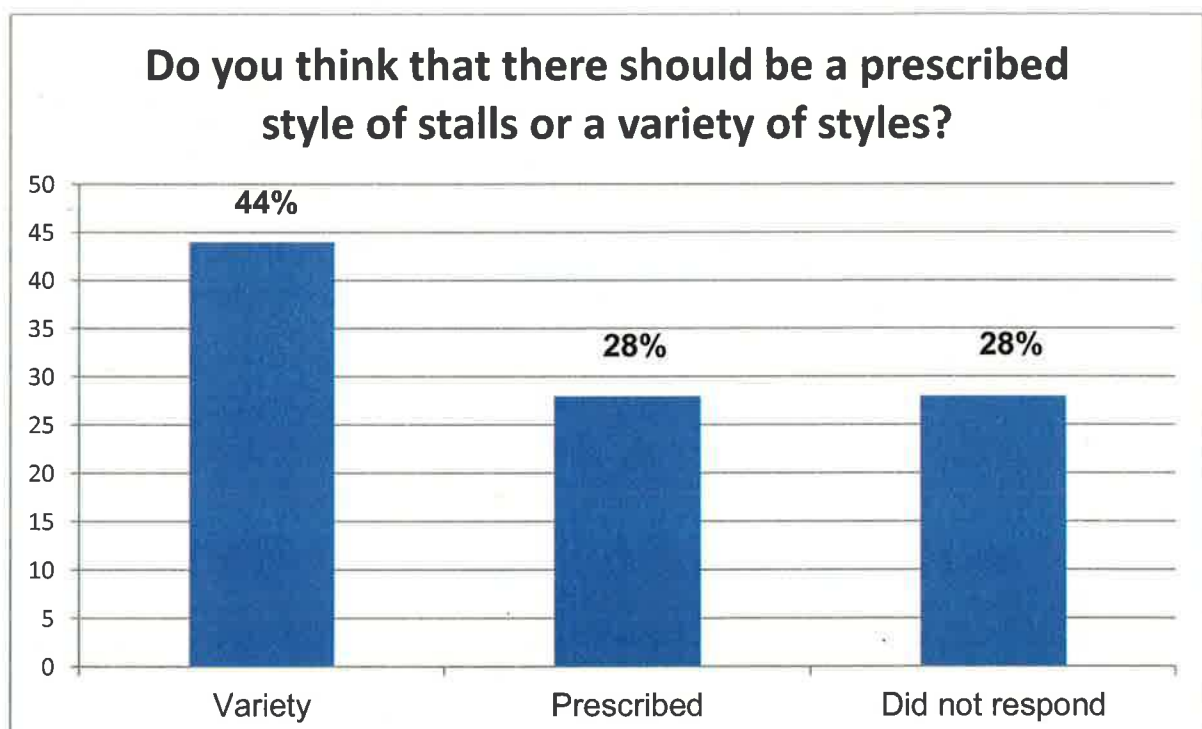
The following responses were received; where necessary, the response from the Licensing Team follows in blue:

Question 1: Respondent (by type)



The respondents in the 'other' category were Council Officers (Including Property Services and Transportation), the Bath Business Improvement District and the Local Food Steering Group.

Question 2: The style of stall:



Annex A- Street Trading Policy 2014 Consultation Responses

Response from the Licensing Team about the responses concerning stalls:

The Council is for the first time introducing the guidance about stall designs. In doing this the Council is not wishing to water down the diversity of the traders within the City but wanting to achieve an element of uniformity and consistency in the canopies.

Question 3: The size of stalls:



Question 4: There is an ambition to have more street markets throughout B&NES. Can you suggest any suitable locations?

Bog island (Terrace Walk, Bath) or outside Guildhall on wide pavements; Stall Street; Abbey Churchyard and Kingston Parade; Bath Street; Closing streets and using these - High Street; Bath Southgate and Henry Street/Kingston Parade; Southgate Street; Keynsham; Midsomer Norton;

Thank you for the comments. It is considered that space restrictions would make it challenging for there to be a street market in Bog Island (Terrace Walk). Again, a street market outside the Guildhall would be challenging due to likely obstructions to the pavement and road.

The Licensing Team do support applications for Farmers Markets and we work with organisers to ensure that they are successful. The team will consider a review of Bath City centre pitches and have discussion with Keynsham and Midsomer Norton Town Councils on street trading in these locations.

These suggestions will be forwarded to the Economic Regeneration Team so that they can be fed into the formulation of a strategy for markets in B&NES.

Annex A- Street Trading Policy 2014 Consultation Responses

Please provide any other comments you have about the Street Trading Policy, Conditions and Guidance:

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

"I run the Bath Leather Goods stall at the junction of Stall Street and York Street and have been trading there for a number of years. The proposals for stall design and size all seem reasonable and similar to my current stall design. There is only one point that I would like to make:

Street traders should be offered the option of a fixed power supply for lighting, a utility bollard or weatherproof and lockable power box could easily be fitted on the pitch site. As a craft seller I really need to light my goods all year round and especially in the winter. The power cable can be connected to the nearest street light, which in my case is only ten feet away. I would be willing to pay the costs of connection and a lighting charge could be added to my pitch fee if it meant I didn't have to run a generator every day. I accept that not all traders want a power supply but the improvement to my display would make it worth it for me. An example of the kind of power bollard that I have used in other places is here:

<http://www.esi.info/detail.cfm/Furnitubes-International/Doric-cast-iron-major-service-bollard/ /R-32498 SE108RD>

Many other designs for bollards or wall boxes are of course available and I would be happy to do the research and provide options if the council can arrange installation. Thank you".

Thank you for the comments. The Council is carrying out a feasibility study into the provision of electrical power for a pilot area in Stall Street, Bath. Feedback from this pilot will be given when it is available.

"Policy fine but is there a more detailed schedule of conditions and restrictions?"

In this policy review guidance notes have been added for the first time and these are considered to be fit for purpose based upon the feedback that has been received during the consultation.

"Peter Dawson Planning Policy Group Manager has asked me to respond to this consultation in light of the work I carried out on the Bath Transport Package last year.

During my time in the Bath Transport Package Team (BTP Team) delivering the City Centre Access restrictions forming part of the wider Bath Transportation Package, I had some close dealings with the street traders and Andy Tapper in Licensing. It became clear from our early consultation events at the Guildhall that the Street Traders were going to be our main objectors to the TRO we were trying to deliver. They had a strong representation at all consultation events and were incredibly vocal in their objections. In the end we had to concede and give them an exemption to the restriction for access purposes despite the fact that all premises based traders, delivery companies, taxi companies and Council services including Waste agreed to work around the restricted access hours. If we did not concede they would have forced a Public Inquiry into the Traffic Regulation Order Proposed. We understood the safety concerns that the traders had in carrying their equipment to the pitch locations however it was felt that equipment could be carried

Annex A- Street Trading Policy 2014 Consultation Responses

in from surrounding streets safely although a little less conveniently. This was not found to be acceptable to the traders. We found it incredibly frustrating that the Street Traders were not willing to buy into the Councils vision of a vehicle free, pedestrian friendly and generally more attractive City Centre which would of course benefit their potential customers and perhaps even boost footfall past their businesses. We also found it frustrating that all other stakeholders were willing to work with us however the street traders who we (The Council) license had the power to potentially block the councils future vision for the city centre. The City Centre Access restrictions were eventually approved and are due to be implemented by the end of the summer this year. We would not be looking to remove any exemptions already agreed with the street traders. However I would request that as part of any future licensing agreements with Street Trader applicants that we should mention the Councils vision of a vehicle free city centre and state that they do not have a vehicular right of access to areas within the city centre that have current/future access restrictions proposed. I think if it is set out at an early stage then traders will be forced to adhere to it along with all other stakeholders. You could argue that it may put some off from applying in future, however I would argue that this would be highly unlikely given the known benefits to street traders being able to trade in the busiest city centre streets. We would also look at mitigating the effects to the traders by improving loading facilities in the surrounding streets.

I hope that you are able to take on board the comments I have raised and thank you for the opportunity given to do so.”

Thank you for your comments.

Para 4.2 of the Policy does highlight that the Council will take Traffic Regulation Orders (TRO) into account when creating new street trading pitches.

The Guidance Notes to the Street Trading Conditions will be amended to make existing consent holders aware of current TRO's and possible future TRO's. The Council is also exploring ways to find storage facilities for street traders which would reduce the need to carry stalls/stock in and out every trading day.

“Para 4.1: *The link takes one only to the opening page of the public web site. How does one navigate after that? I did eventually find via Business/Street Trading details of the occupied and vacant sites, but those details are not a map.”*

Para 4.1: Yes, we will make this link specific so you can navigate to the page more quickly.

“Para 5.3: *The criteria in para 4.2 are essentially about public safety and nuisance. What about unfair competition with shops or too many stalls selling the same thing? Do you need to also refer to the overriding criteria in para 1.2? There are also criteria in para 12.”*

Para 5.3: The Council is subject to the EU Services Directive which is designed to ensure fair trade. Para 12.2 of the policy does state that consent will not normally be given for the sale of goods which will may conflict with goods sold by nearby shops etc. Agree that overriding criteria in Para 1.2 should also be included.

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“Para 6.3: What does most suitable mean? It is the nub of the Licensing Manager’s discretion, but is not defined. Do you need to refer again to the criteria in paras 4.2 and 1.2? Is there any appeal against the Manager’s choice between competing bids”.

Para 6.3: The manager’s discretion is exercised having regard to the policy as a whole. Always open to hearing comments about decision, but the final decision must rest with the manager and the statute does not provide any appeal process.

“Para 8: What criteria will be applied?”

Para 8: Each application will be judged on its merits in accordance with the policy as a whole.

“Para 9.2: Do you need to refer to para 1.2 as well?”

Para 9.2: Yes, a reference to Para 1.2 will be included.

“Para 10.2: It is not clear what the second sentence is implying. Does it simply mean that the sites will be where busking will not cause nuisance to local residents and businesses? That seems a bold promise, because it depends on how the busking is performed. Do you intend to apply conditions to buskers in these sites which will restrain excessive noise or amplification? If so, should you say so explicitly, rather than implicitly by cross-reference to the criteria in para 4.2 which include noise?”

Para 10.2: The purpose of this policy provision is to permit the otherwise unlawful sale of goods by buskers and other street entertainers. The standard street trading conditions cover public nuisance and the Busking Code of Practice will be attached to the consent. If necessary, enforcement action will be carried out by the Environmental Protection Team using provisions of the Environmental Protection Act 1990. Agree that reference to Para 1.2 should be included.

“Para 14.5: see comment on para 6.3.”

Para 14.5: The manager’s discretion is exercised having regard to the policy as a whole. Always open to hearing comments about decision, but the final decision must rest with the manager and the statute does not provide any appeal process.

“Para 14.7: What is a relevant offence? ‘Any other reason’ seems unlimited is our power of revocation so total? Do you mean breach of the conditions of the licence?”

Para 14.7: An example of a relevant offence would be the sale of counterfeit goods. Our powers of revocation are wide and are ultimately determined by the Licensing Sub-Committee.

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“Para 15.1: What does reasonable mean? I have understood (am I wrong?) that the Council may not recover by way of street trading fees in aggregate more than its costs of administering and enforcing the street trading regime, but within that aggregate fees may vary according to the characteristics of the site. If my understanding is correct, should you say so?”

Para 15.1: The Local Government (Miscellaneous Provisions) Act 1982 does allow local authorities to charge variable fees depending upon pitch locations. The Council is allowed to take account of costs including overheads and pitch locations in setting fees.

“We frequently deal with noise complaint from busker's pitches. It might be useful to have some guidance on what is acceptable (e.g. noise ranges, amplification) in the policy. I'm aware that the BID have hosted and written an unofficial set of guidelines in this area, but there is no enforcement or sanction for those who exceed the guidelines.”

Thank you for your comments.

The standard street trading conditions cover public nuisance and the Busking Code of Practice will be attached to the consent, which does provide further guidance. If necessary, enforcement action will be carried out by the Environmental Protection Team using provisions of the Environmental Protection Act 1990. Further information is provided by this team at environmental_protection@bathnes.gov.uk

“Para 13.4: This provision makes it a requirement to register with the Food Safety Team and Para 14.8 states that the application will not normally be delayedunless advice of Food Safety team is required.

The H&S team would like it to be a requirement to ensure that any street traders have a valid gas safety certificate on grounds of public safety. A recent campaign with mobile food traders resulted in a prohibition notice being served on a stall holder in Southgate because of a very poor standard of gas fitting. If the Council is granting permission for street trading - we should be ensuring that we are promoting good standards of safety and hygiene.”

Thank you for your comments.

Agree. An extra provision will be included requiring all consent holders to comply with relevant H&S regulations including gas and electrical safety and Para 14.8 will also be amended to include the Health and Safety Team.

“Street trading makes Bath stand apart from other cities in England by giving locals and tourists a sense of individuality and uniqueness to the city; showing locals that they have independent traders who put money back into the city and provide a small unique service to the customer which is sadly lacking in the big shopping chains! The customer can have a chat about the weather or the problems with a product they may have without having to go through big company protocol. The same applies to the tourist who is eager to meet a real local and get a sense of the English and how we live. Often the street trader is the first port of call if they are lost or need help! People need to meet people to understand the city. So my only comment would be PLEASE leave street trading to be individual each stall being different to show that bath is not just a Standard city; that

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you allow it's locals to breath and show their creativity and uniqueness. This is what will make Bath stand out from the crowd! I would like to thank the Council for giving me the opportunity to sell and paint for the years I have been doing it! I love the job and would hate to see it go and change I try my very best to represent Bath and its people."

Thank you for your comments. By introducing the guidance about stall designs the Council is not wishing to water down the diversity of the traders within the City but wanting to achieve an element of uniformity and consistency in the canopies

"A good variety of shops but shop front should become less stringent to alter. The new shop front on Anthropologie has transformed the area and the ability to do this elsewhere (within reason) will show Bath is evolving and keeping up with other major cities."

Thank you for your comments. Shop based trading is outside the scope of this policy consultation.

"Some stalls have become too large and adversely affect those next to them - they dominate. Some stalls come out too far and when told to move back will do so but then slowly move out again -NOTHING is ever done about this - it really affects the stalls next to them. I suggest a line 12 feet out that we are not allowed to go over - this would be an easy method to stop encroachment. 3m x 3m is fine for some but 4m x 2.25m would be better for others i.e. mine. Parking for loading and unloading is always difficult - help and understanding of our problems would be appreciated. Stalls that create noise and crowds SHOULD NOT be put next to other stalls - it noticeably affects trade - people often cannot get to my stall and can only walk on the other side of the street - not great for business and shouting from the stall doesn't help either. This is the same for buskers who create crowds. Buskers (who are mostly pretty good these days) are also often too loud - amplifiers turned up too loud. Generators are noisy and create fumes - a simple solution would be to provide electric points like many other towns and markets. This would make a HUGE difference for us. Approach has been made to electric companies who could do this easily and not too expensively but blocked by council who weren't prepared to look for solutions - if there is no solution there is no problem - and there IS a problem here. Also with the planned repaving it could be sorted so easily. GULLS - is anything ever going to be done about the menace - the streets are disgusting and not much fun for those who have to spend time out there!!!- the councillor who didn't realise there was a problem obviously doesn't get out much !!! Hope this is all helpful for you. ps the fees are high - note the recent high turnover of stalls -should the council be making a profit from consents (not licences)or should fees just be covering costs?"

These comments are welcomed and will be addressed outside of the policy consultation. However for information the Local Government (Miscellaneous Provisions) Act 1982 does allow local authorities to charge variable fees depending upon pitch locations. The Council is allowed to take account of costs including overheads and pitch locations in setting fees.

In addition the Council is carrying out a feasibility study into the provision of electrical power for a pilot area in Stall Street, Bath. Feedback from this pilot will be given when it is available.

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“The key issue is that the Council is prescriptive about the location of the pitches and acceptable trading uses to ensure that there is a relationship between the street trading activity and the adjacent retail units.”

Para 12.3 and Para 1.2 confirms that the types of goods being sold are considered on a pitch by pitch basis and that the inter-relationship with shop-based trading is also taken into account.

“This joint response to the street trading policy represents the views of members of the B&NES Local Food Steering Group and Public Health Representatives:

Public Health Representatives:

- Bruce Laurence: Director of Public Health
- Paul Scott: Assistant Director of Health Improvement
- Judy Allies: Director of Public Health Award Coordinator
- Jo Lewitt: Commissioning and Development Manager

Local Food Steering Group:

- Jane Wildblood: Corporate Sustainability Manager
- Denice Burton: Assistant Director of Health Improvement
- Sophie Kirk: Corporate Sustainability Officer (Food)
- Jameelah Ingram: Public Health Development and Commissioning Manager
- Mark Minkley: Green Infrastructure Manager
- Graham Evans: Horticultural Manager
- Virginia Williamson: Transition Bath Food Group Convenor
- Lorinda Trebaczyk: Waste Campaigns Officer

Introduction:

Food retail including street trade affects the provision of, and access to, healthy and unhealthy food in our district and can influence peoples’ dietary decisions. This joint-response recommends that guidance is incorporated into the street trading policy to encourage the provision of healthy food by street vendors.

Addressing diet-related ill health and increasing access to healthy food are key priorities outlined in the respective Joint Health and Wellbeing strategy and the draft B&NES Local Food strategy. We recommend that the street trading policy aligns with the above strategies by introducing guidance that encourages the provision of healthy food to support people to make healthy dietary choices. We recommend that the following guidance is incorporated into the street trading policy:

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Section 12: Nature of goods and trading hours:

Incorporate guidance that encourages the provision of healthy food choices in permit to trade.

Example wording: "The Council is committed to promoting healthy eating and consideration will be given to the type and quality of food sold. In the case of stalls selling hot food at least one healthy meal option should be provided."

Section 12.3: Nature of Goods and trading hours:

Amend the wording of this section:

Example wording: "Goods will normally consist of craftwork, fresh flowers, fresh fruit and vegetables, local produce, ice cream or soft drinks."

These comments are welcomed and we have amended our policy to reflect some of these recommendations.

"Other recommendations:

Insert another box into the Street Trading Pitch Request Form below "Please enter the types of goods you wish to sell" asking "If food items, which healthy options will you be providing?"
<https://www.bathnes.gov.uk/form/street-trading-pitches>

The Council can ask if an applicant will be providing healthy options but this should not prejudice the application if healthy options cannot be provided due to the nature of the products being sold.

- Include wording around the role of markets and/or street trade in promoting healthy eating and providing local food
- Include wording around the role of markets in promoting environmental sustainability such as local food and low food packaging

Further information:

Further guidance on healthy street food vending can be found on the "Healthy Places" website, and interesting examples of related work by Guildford Borough Council and Islington Council can be found at the following web links:

<http://www.healthyplaces.org.uk/case-studies/?entryid38=1206>

[http://www.islington.gov.uk/publicrecords/library/Economic-development/Business-planning/Strategies/2010-2011/\(2010-07-06\)-Street-Trading-Strategy-2008-to-2012.pdf](http://www.islington.gov.uk/publicrecords/library/Economic-development/Business-planning/Strategies/2010-2011/(2010-07-06)-Street-Trading-Strategy-2008-to-2012.pdf)

These comments are welcomed and we have amended our policy to reflect some of the recommendations.

"I would like to see continued support for the Farmers' Markets in Keynsham and Midsomer Norton.

I believe there is an opportunity for a weekly Farmers type produce market in the city centre, probably Southgate Street. As regards the street trading pitches I believe a review of locations in

Annex A- Street Trading Policy 2014 Consultation Responses

Bath city centre might be useful. Also a discussion with Keynsham and Midsomer Norton Town Councils about street trading pitches in those locations.”

Thank you for your comments.

The Licensing Team do support applications for Farmers Markets and we work with organisers to ensure that they are successful. The team will consider a review of Bath city centre pitches and have discussion with Keynsham & MSN Town Councils on street trading in these locations.

“Any new traders should complement the retail offer of the local shops & street traders.

If the council is going to provide the stall holders with a uniform canopy both trader and council should make provision for the replacement or refurbishment of the street trader’s canopies every 5 years. This will ensure that standards are maintained over the long term.”

Thank you for your comments.

This is agreed. The implementation of replacement units will be phased in over a number of years and it is hoped to introduce a rolling programme to maintain standards.

“Thank you for inviting Paul and myself to yesterday’s workshop. I thought this was well run and stimulated a positive discussion.

1. Strategy on Street Trading

There was a feeling that the workshop mainly focussed the practical aspects of licensing and street trading without asking the question ‘What do we want Street Trading to look like?’ “

Thank you for your comments.

Street Trading has evolved over many years and the task of re-siting all of the existing pitches would prove to be extremely difficult and subject to likely challenge from the street trading community. However the Council recognises the point being made about the street trading offer and will endeavour to consider this when allocating pitches, bearing in mind this is very much driven by the application process and legislation.

“The discussion did linger a lot on page 5 section 13. (look of the stalls).”

The Council recognises that this is an important issue and this review is an opportunity to get the right balance between uniformity and variety of design for our street trading stalls.

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“As previously cited in the document 2010 written by Sarah Mansfield and myself; we feel that your review of street trading is a great opportunity to address some of the more strategic questions about how our retail offer should look and feel to the consumer, and how street trading can serve to complement and enhance this. This was a view expressed at both the BID Board and the Property Landlords forum.”

As previously stated the Council recognises the importance of the street trading offer and working with the retail sector. We endeavour to support this within the restrictions imposed by the EU Services Directive and the applications which we receive.

“The business community is very supportive of street trading and we must eliminate any previous niggles about small vs. large or chain vs. independent, but instead concentrate our efforts of using street trading and markets to grow and support our retail economy in a collaborative way for mutual benefit. Retailers and businesses wish to see a vibrant, aesthetically pleasing and well-managed street trading offer.”

Yes, agreed.

“At present Street Trading is seen as a function of licensing. The management of street trading from a retail perspective is left alone and this has a detrimental impact on our retail offering, and it reflects badly on the World Heritage Status. This has been supported with pictures of pallets and roll containers sprawled in the street, badly spelt signs and a poor presentation of product.”

The legislation governing street trading does not allow for the Council to consider the management of the retail offer within this policy. However, we welcome discussions on how the BID and the Council can work in partnership to support street traders in terms of business advice in the future. The situation described has much improved since the photographs were taken.

“Licenses are granted on a reactive basis rather than considering the retail mix and proactively seeking to fill the gaps in our retail offer.”

Inevitably the allocation of pitches are driven by the applications received however the Council endeavours to consider the retail offer for the city within the restrictions of the legislation.

“Para 4.2 The council reacts to request for pitches rather than stating where and how we want the street trading to look. In a recent application, a coffee vendor asked to be located outside M&S at the top of St Lawrence St. Because of the reactive nature of the policy, the council and retailers had to go through a process of objecting to this proposal. This costs valuable time and waste money for the council. Instead the policy should be stating how the pitches are located and the preference for type of retail use (as a landlord would do) This would then reduce bureaucracy and improve the retail offer.”

The Council cannot refuse to accept an application for a street trading pitch and cannot state a preference for a type of retail use in a particular location given it does not own the highway. Quite rightly there is a democratic process on the allocation of pitches so that everyone has an opportunity to express a view.

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"In the presentation yesterday, I mentioned Kingston-upon-Thames. The council in Kingston works in partnership with the BID to unlock funding and transfers council services for mutual benefit in enhancing their markets/street trading. This is something worth exploring."

This will be considered.

"The Bath BID would like the opportunity to discuss with you formally, as part of this review, how we can use BID funding and agree a way of 'protecting the council income on Street trading' but also enhancing offer through 'better Retail Management and working together'."

This is outside the scope of this policy consultation however the Council welcomes having the discussion.

"Is there an arrangement that meets the statutory function while at the same time addresses the retail and management issues? I believe there is and there is a feeling that commercial opportunities are being missed along with an opportunity to be more ambitious. We would like to explore this. This was welcomed by you and your colleagues at yesterday's meeting."

Discussions would be welcomed on this point.

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Discussions would be welcomed on this point.

"2. Strategy on Markets

It was not clear yesterday what is the strategy for markets. The only reference is section 9 stating that the council activity supports the provision of temporary street markets. We again would be keen to discuss this with you."

A strategy regarding markets in B&NES is being progressed outside of the policy consultation.

"3. Practical Considerations

Many of the practical considerations and solutions are listed in my email of 26th February 2014. (below) and were discussed at length yesterday. Tethering, light, power, design of carts, storage, etc."

These issues are being addressed outside of the policy consultation.

"The solution about the council buying capital equipment and renting back – I could not find the detail on this. The purchase of capital equipment for street traders has always been a stumbling block to improvement. We are keen to work with the council and find joint solutions as per point 1. May be this could be speeded up before 2017 if we can work in partnership?"

The use of capital funding for procuring stalls is not considered to be a stumbling block and it is anticipated that all the new stalls will be in place well in time for 1 January 2017.

"4. Other aspects of the Policy

**How will the policy address pedlars? Other than section 3.1, Page 2"*

Pedlars are not within the scope of this policy and any pedlar trading illegally will be subject to the appropriate enforcement action.

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“Para 10 on buskers, Page 4, is a welcome step to manage buskers and formally get them to agree the code of conduct.”

The purpose of this policy provision is to permit the otherwise unlawful sale of goods by buskers and other street entertainers. The standard street trading conditions cover public nuisance and the Busking Code of Practice will be attached to the consent.

*“*Para13.2 Many felt that opportunities for a wider discussion about the role of street trading have passed as a date of 1st Jan 2017 has been set.”*

This date is considered to give a reasonable time period for compliance. Feedback from the consultation does not indicate that this date is a problem for the street trading community.

*“*Para11.3 The BID has the license for this area (Kingston Parade)and it continues to be listed on your web site – thank you.*

**The policy does not consider opportunities for incubation, new businesses start up help and business support – this is an important economic aspect.”*

The Council recognises the importance of street trading in assisting start-up businesses and welcomes discussion on how to provide business/marketing support in partnership with the BID in the future.

“5. Communication

I would echo the comments made about communication on the ground and how this has improved. Credit goes to Andy Tapper for being available, on hand and a willing to engage and respond. Thank you.

To reiterate we welcome the invitation from Cllr. Dixon and yourself to meet and discuss this further. I hope this is helpful and supportive to the overall process.”

Thank you for this comment.

I lead a team of 4 valuers in the commercial estates team, looking after approximately 70% of the retail property here in Bath which generates significant income for the Council.

I think what Andrew Cooper said at the recent meeting is very relevant. A whole approach should be taken to the issue taking into account retailers, street traders and markets.

The Council recognises the importance of the street trading offer and working with the retail sector. We endeavour to support this within the restrictions imposed by the EU Services Directive with the applications we receive.

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"No market or street trader should be in competition with existing retailers in the street. Any licensing should be appropriate for the street. As an example last year, someone wanted to operate a Milk Bar directly outside Jolly's in Milsom Street - this was totally inappropriate for such a flagship store."

See above comment. In the example given the application was not progressed.

"Obviously our retailers pay significant rents and rates to the council and it can be quite irksome when a stall trader pitches up not paying anything like these sorts of sums."

Clearly the fees for street trading are not the same as for retail lets. However the street traders do not receive the same benefits as retail lets. For example, street trading pitches are subject to the unpredictable factors such as bad weather which has a detrimental impact on their day to day trading ability.

"We have actually had quite a lot of negative comments from our retail tenants when it comes to the Christmas market. It may generate revenues for the stall holders, but quite a few of our tenants say it hits their takings during this period, people should be encouraged to visit the rest of Bath; not just the market. In fact, quite a few of our retailers now take stalls in the market to combat this. This trend is definitely increasing."

The provision of a street trading permit for the Christmas Market is subject to a democratic process each year and if retailers have issues, this is the time to voice their opinions so that they can be properly taken into account.

"Stalls and traders should not be allowed to pitch in front of existing retail windows and doors, blocking their legitimate displays and entrances."

Care is taken to ensure that stalls do not pitch directly in front of existing windows and doors of retail premises.

"Specifically on the Policy:-

Para 5.3: whilst referring to 4.2, should also refer to 1.2 as well. Agreed

Para 9.2: should refer to section 1 as well, as should 10.2 Agreed

We agree with 12.2. & 12.3.

Annex B-Proposed Street Trading Policy

1 Purpose

- 1.1 Bath and North East Somerset Council understands that street trading is important to both the local environment and local economy. Street trading can provide vibrancy and interest to the local environment and an opportunity for small businesses to establish themselves and grow.
- 1.2 The Council's vision for Bath and North East Somerset is to create a street trading environment which:
 - complements premises-based trading
 - is sensitive to the needs of residents
 - ensures that public spaces become active spaces
 - provides diversity and consumer choice;
 - seeks to enhance the character, ambience and safety of local environments
 - promotes healthy eating
 - provides local food

2 What is Street Trading?

- 2.1 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public has access without payment.
- 2.2 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as 'Consent Streets' for street trading purposes.
- 2.3 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council.
- 2.4 Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.
- 2.5 **Specific sites for buskers will be established in the centre of Bath. Only these sites can be used by performers who also want to sell items connected with their performance e.g. CDs. This will change to:**

Street trading consents for buskers wishing to sell items associated with their performance (e.g. CD's) will be established
- 2.6 Consents may be issued to mobile vendors such as Ice Cream Traders to operate in specific locations outside of the central area of Bath.

3 Exemptions from the need to obtain a Consent

3.1 The Local Government (Miscellaneous Provisions) Act 1982 states that the following are exempt from the need to obtain Street Trading Consent:

- trading by a person acting as a pedlar under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order
- trading in a trunk road picnic area
- trading as a news vendor
- conducting a public charitable collection
- trade carried out by roundsmen e.g. milkmen
- trade carried on at a petrol filling station, and
- trade carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop

4 Pitch assessment

4.1 The Council will maintain a map showing the location of street trading pitches. This map is available on the Council's web site at www.bathnes.gov.uk/services/business/street-trading

4.2 The Council may from time to time identify new pitches for street trading and will consider applications for new pitches. In determining whether to create a street trading pitch the Council will have regard to:

- an overriding public interest
- any effect on road safety, either arising from the siting of the pitch, or any loss of amenity caused by noise, traffic or smell
- existing Traffic Orders e.g. waiting restrictions
- any potential obstruction of pedestrian or vehicular access
- any obstruction to the safe passage of pedestrians; and
- the safe access and egress of customers and staff from the pitch and immediate vicinity
- any land owners permission which may be required from a private land owner or a relevant Council service e.g. Environmental Services (Open Spaces), Commercial Estates or Economic Regeneration

5 Application Process for a New Pitch

5.1 Before new pitches are created the Council will consult and seek written observations from:

- occupiers of premises immediately adjacent and opposite
- existing holders of street trading consents in the immediate area
- relevant ward councillors
- relevant parish or town councils
- Avon & Somerset Constabulary

- relevant Council Services including Development Control, Highways, Property Services, Environmental Services (Open Spaces), Commercial Estates, Trading Standards and Food Safety
 - a relevant land owner
 - any other stakeholder considered by the Council's Licensing Team to be relevant to the application
- 5.2 In addition to the above, public notices will be placed in a clearly visible location at the site of the proposed new pitch.
- 5.3 **The Council will consider any responses received in relation to public notices and any objection from consultees will be assessed against the criteria in paras 1.2, 4.2 and Section 12 and may be referred to the appropriate Licensing Sub-Committee for determination.**
- 5.4 Any proposed change to conditions attached to a consent will be in consultation with consent holders and others, as specified in 5.1 above, if relevant.

6 Application Process for an Existing Pitch

- 6.1 When an existing or new pitch becomes available, the Council will publish details of the vacancy, inviting applications for the pitch. The details will be published on the Council's website.
- 6.2 Applications will be determined by the Licensing Manager. If no suitable application is received then the pitch will be re-advertised.
- 6.3 In situations where there are competing applications then the Licensing Manager will decide the most appropriate applicant in consultation with the Service Manager. The pitch will be offered to the applicant whose proposal is considered the most suitable for the particular location.

7 Mobile Street Artists

- 7.1 Mobile street artist consents may be issued to persons who sketch or paint and sell their own work and move from location to location.
- 7.2 Applicants for mobile street artist consents must give a minimum notice period of 48 hours to the Licensing Team in relation to their application.

8 Mobile Traders

- 8.1 Any mobile trader e.g. ice cream vans, will require a street trading consent.
- 8.2 Before issuing a consent the Council will consult with relevant bodies, as specified in section 5.1, and will require details of the daily routes and times of the rounds.

9 Street Markets

- 9.1 The Council actively supports the provision of temporary street markets within the district and special consideration will be given to markets which are considered beneficial to the local area.

9.2 Applications for temporary street markets will be considered using the same criteria set out in **Para 1.2** and in sections 4 and 5 of this policy.

10 Pitches for Buskers

10.1 **The Council will issue Street Trading consents for use by buskers who wish to sell items associated with their performance (e.g. CD's).**

10.2 Applications for pitches for buskers will be considered using the same criteria set out in **Para 1.2** and sections 4 and 5 of this policy.

11 Pitches for Charitable Street Trading

11.1 The Council issues permits to enable charitable street trading. Charitable street trading must not be undertaken in any street or public place unless the Promoter has obtained a consent from the Council. The only exception to this is where the collection is exempt under schedule 4 of the 1982 Act (see section 3)

11.2 In relation to charitable street trading, the Council has a designated street trading pitch for this purpose at Kingston Parade, Bath. This pitch will be available to registered charities, or organisations demonstrating that they are a 'not-for-profit' organisation. Use of this pitch will be subject to the Council's standard street trading conditions.

11.3 The charity or organisation must obtain permission from the Principal Consent Holder responsible for the pitch at Kingston Parade whose details can be obtained from the Licensing Department.

12 Nature of Goods and Trading Hours

12.1 The nature of goods which may be sold from any pitch and the trading hours will be specified in the consultation process. Any subsequent application for a change in the nature or type of goods sold or the trading hours will require a further application and will be subject to the level of consultation as set out in section 5.1 above.

12.2 The Council will not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops or nearby street trading pitches.

12.3 Goods will normally consist of craftwork, fresh flowers, **fresh fruit and vegetables**, ice cream or soft drinks. Other types of goods, including services, will be considered on a pitch by pitch basis and have particular regard to local needs, product diversity and balanced with other retailers in the immediate vicinity.

12.4 Street trading hours will normally mirror those of shops in the immediate vicinity. Extended trading hours will be determined on a pitch by pitch basis.

12.5 In the case of stalls selling hot food trading hours will be determined on a pitch by pitch basis.

12.6 Late night food traders operating after 11:00 pm will be subject to the requirements of the Licensing Act 2003 regarding the need for a Premises Licence. Greater consideration will

be given to the impact on the night time environment and the possibility of crime and disorder on the streets as a result of the granting of a street trading consent.

13 Design and Appearance of Stall, Barrow, Van, Cart etc.

13.1 The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.

13.2 The Council has a preferred set of standards of design and appearance that they wish to achieve for all street trading pitches based in the central area of Bath.

- All new applicants will be required to use an approved design unless a suitable alternative is agreed
- All existing Consent Holders will be required to change to an approved design by 1st January 2017, or upgrade the whole or parts of their units, as appropriate

13.3 The condition of all pitches will be monitored regularly to ensure that the required standards are maintained.

13.4 All consent Holders trading in food products are required to be registered and inspected by the Council's Food Safety Team. Contact details of the Food Safety team can be found on the Council's website.

13.5 All consent Holders are required to comply with relevant health and safety regulations including those relating to electrical and gas safety.

14 Issue of Street Trading Consents

14.1 An application for a street trading consent or the renewal of such a consent shall be made, in writing, to the Council. Applications can be e-mailed to the Council at: licensing@bathnes.gov.uk.

14.2 Consents will not normally be issued for a period of less than six days per week, unless the applicant can provide an alternative scheme acceptable to the Council.

14.3 Where a consent has expired the pitch will become subject to paragraphs 14.4 and 14.5 below.

14.4 When an existing or new pitch becomes available, the Council will publish a notice inviting applications for the said pitch on its website.

14.5 Applications for an existing pitch will be determined by the Licensing Manager or other authority delegated by the Council. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch. If no suitable application is received then the pitch will be re-advertised.

14.6 A consent cannot be issued to a person under 17 years of age.

14.7 An application for an existing pitch may be refused or revoked if the applicant is found to be unsuitable to hold the consent by reason of having been convicted of a relevant offence, or for any other reason.

14.8 The issue of a street trading consent will not normally be delayed where other approvals, permits, licences are required by other departments or statutes except in the case where advice is required from the Council's Food Safety and Health and Safety teams.

15 Fee Structure

15.1 The Council may charge such fees as it considers reasonable having regard to pitch location, the size of the Pitch, trading days, hours and the description of goods offered for sale.

15.2 The fees will be reviewed and set on an annual basis and any variation advertised by notice in a local newspaper.

15.3 Fees for consents must be paid in full in advance:

- in the case of Direct Debits, on a monthly basis
- all other methods, three months in advance

15.4 Failure to maintain payments as above may result in the consent not being renewed. Where a payment is not made by the due date the Council may charge an administration fee as determined by the Licensing Manager. This will include cheques or Direct Debit requests that are not honoured.

15.5 The Council cannot guarantee that pitches will be available every day and accepts no liability for the loss of earnings in relation to street trading consent holders or their employees.

15.6 In the event of roadworks, utility or service repairs and other genuine circumstances that affect the use of any pitch, the Licensing Manager will consider appropriate refunds on a case by case basis, provided a written request has been made by the consent holder.

16 Street Trading Consents for which fees are not payable

16.1 The Council will not require the payment of fees for the following street trading activities:

- fetes, carnivals or similar community based and run events
- non-commercial or charitable events
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people); and
- sale of articles by householders on land contiguous with their homes

17 Conditions and Enforcement

17.1 Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

17.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.

17.3 Failure to comply with conditions may lead to revocation or non-renewal of a consent.

17.4 Persons trading without a consent and who are not exempt (see 3 above for examples) will be the subject of enforcement action in accordance with the Council's Enforcement Policy. Copies of the Enforcement Policy can be obtained from the Council's Licensing team or website.

17.5 The consent Holder is required to obtain and maintain their own Public Liability Insurance to a minimum of £5m. This will be required to be produced for inspection before any consent is issued and on demand when requested by an officer of the Council.

18 Equality

18.1 The Council is committed to equality of opportunity and believes that the diversity of the community is a major strength which contributes to the social and economic prosperity of the area.

18.2 The Council commits to ensure that no resident of, or visitor to, the area or other person associated with the Council is treated inequitably or in an unlawful or unjustifiably discriminatory manner.

18.3 The Council will take positive steps to stop any unfair/unlawful discrimination, and will carry out positive action where discrimination is found.

19 General

19.1 Through its tourism service and by other means, the Council will seek opportunities to promote street trading activities.

19.2 This policy will complement and inform other Council initiatives including those on street markets and the public realm.

19.3 This policy will be the subject of periodic monitoring and review.

19.4 This policy will inform the detailed conditions attached to every street trading consent.

19.5 This policy will be applied in a manner which is consistent with the Council's equalities policies.

Annex B-Street Trading Standard Conditions

Standard Conditions (attached to each Street Trading Consent)

1. The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed to assist on the Pitch shall produce the Consent on demand when so required by a Police Officer or a duly authorised officer of Bath & North East Somerset Council (the Council).
2. The holder shall return this Consent to the Council immediately on revocation or surrender of the Consent.
3. The holder shall not trade otherwise than strictly in accordance with this Consent.
4. The holder shall notify the Council's Licensing Team at Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG immediately of any convictions or cautions obtained by the holder of this Consent.
5. The holder shall not cause any obstruction of the street or danger to persons using it and shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any persons lawfully using the street and shall not park any such van etc. on the footway or verge of the street.
6. The holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent, save as varied by a special condition of this Consent **or in relation to Consents relating to buskers.**
7. The holder shall not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the consent, in writing, of the Council's Licensing Manager.
8. The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
9. The holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
10. The holder shall not place on the street any furniture or equipment other than as permitted by the Consent and they must maintain the same in a clean and tidy condition and not place them so as to cause any obstruction.
11. The holder shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, **statutory or common-law** nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
12. The holder shall not assign underlet or part with his interest or possession under this Consent or any part thereof but they may surrender it at any time.

13. The holder shall observe and comply with any directions in relation to the use of the street given by any duly authorised officer of the Council.
14. The holder shall keep the trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
15. The holder shall provide at their own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items and remove them and their contents at the end of each daily period of use under this Consent.
16. The holder shall retain with any van, cart, barrow, other vehicle or stall included within this Consent any water used or waste produced until the end of each daily period of use under this Consent and then remove it and dispose of it elsewhere, and in particular shall not deposit any such waste near or into any street drain or channel.
17. The holder shall indemnify and save harmless the Council and their agents, servants and workmen from and against all proceedings damages claims or expenses in respect of an injury (including personal injury) which may be sustained by the Council or any person or persons body or company whatever arising out of or in any way connected with his trading and the provision of facilities under this Consent.
18. The Consent Holder shall arrange their own Public Liability Insurance for a minimum value of £5M.
19. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
20. The Consent holder or any person employed by them to assist them on the Pitch shall at all times wear the identification badge issued by the Council whilst trading from the pitch. The badge shall be worn in a conspicuous position on the upper body.
21. The holder shall return the identification badge(s) to the Council immediately on revocation or surrender of the Consent.

22. Street Trading Fees

All street trading fees are due in advance:

- i. Where fees are paid by cash or cheque then they need to be paid before the 1 January, 1 April, 1 July and 1 October each year unless;
- ii. The Consent Holder has in place arrangements to pay the street trading fee by monthly Direct Debit installment whereas the Consent will be renewed on an annual basis commencing on 1 April.
- iii. Failure to maintain Direct Debit payment as above may result in the consent being revoked or not renewed.
- iv. Where the payment fails to be made by the due date the Council may charge an administration fee as determined by the Licensing Manager.

Notes:

1. Street trading in a consent street without a Street Trading Consent, or from a van, cart etc., not specifically permitted by Consent, or contravening certain conditions attached to a Consent, amounts to an offence for which proceedings may be instituted.
2. A Street Trading Consent does not confer immunity from the provisions of any Street Parking Places Order or General Traffic Restriction Order **unless an exemption has been specifically approved**. In case of doubt about the effect of any such Order, enquire at Licensing Services, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG. **Any abuse of a specifically approved exemption may lead to the privilege being withdrawn for all traders.**
3. The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

Schedule 4, paragraph 10

1. A person who:
 - b) engages in street trading in a consent street without being authorised to do so under this Schedule: or
 - d) being authorised by a street trading consent to trade in a consent street, trades in that street:
 - i) from a stationary van, cart, barrow or other vehicle; or
 - ii) from a portable stall,without first having been granted permission to do so under paragraph 7 (8) (of this Schedule); or
 - e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.
2. It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that they took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
3. Any person who, in connection with an application for a street trading consent, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence.
4. A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine.

Annex B-Guidance Notes for Street Trading Stalls in Bath and North East Somerset

These guidance notes should be read in conjunction with the Council's Street Trading Policy and Standard Conditions.

The aim of these guidance notes is to provide help to stall holders on what type of stall they should provide and the quality and design of the stall that the Council expects.

Primarily any stall should be visually appealing, be so constructed that it does not present a danger to the public or people working on the stall, it should not create an obstruction of the highway allowing the free flow of pedestrian traffic and it should not cause a nuisance or annoyance to the public or to local residents and businesses.

The Council accept that there is no one design which will be suitable for all locations or for all uses, so these notes are a general guidance and for further detail any stall holder, or potential stall holder, should contact the Council's Licensing Team first of all.

General Stall Design

In general stalls should be of a portable ridged frame market umbrella system, they should be of robust construction, should be able to withstand all weathers, should not present any health and safety risk to the public or people working on the stall and should be suitable for the purpose that it is intended for whether it is a stall selling craft goods or a stall selling hot food.

- Stalls should be appropriate for the area that they are situated and should allow a thoroughfare of at least 2 metres for the free movement of the public. The 2 metre rule may be increased where there is particular heavy footfall or there are obstructions such as bus stops, bicycle stands, or benches.
- As a general rule no stall should cover an area larger than 9.0 square metres e.g. 3.0m x 3.0m. Stalls can only be larger than this if agreed by the Council and in some circumstances additional fees may be required for stalls which are larger than the 9.0 square metres.
- Stalls should have a suitable canopy which is designed for everyday use, is robust, adequately covers the stall and provides some protection to the customer.
- Ancillary equipment and stock must be kept within the footprint of the pitch.
- Trading from vehicles or caravans on paved areas will not normally be permitted due to the damage that may be caused to the paving.
- The use of loudspeakers will not normally be allowed due to potential noise nuisance to local residents and businesses.
- The stall holder will be required to provide their own power supply. Where a generator is used then sufficient precautions should be taken to prevent any possible nuisance from noise or spillage of fuel.
- Canopies and awnings must be secured to the support structures neatly and securely, with adequate tension and no sharp projections.
- Street trading consent holders wishing to advertise on or from their stall must, prior to any advertisements being displayed, seek written permission from the Council's Licensing team.
- The use of advertising A-boards will not be allowed.

Stalls in the Central shopping area of Bath

The Council have carried out a trial of what it considers to be suitable stalls for the central shopping area of Bath. The trial consisted of three stalls at the top of Southgate Street and considered visual amenity and practicality of the stalls. The design of the stalls also took into account the importance of the central shopping area and the world heritage status of the city.

Following the success of the trial it has now been decided to expand this design to the rest of the central shopping area of Bath.

Canopies and awnings which are a pastel coloured are preferred. Examples of the preferred style are given below.



The main central shopping area consists of the central spine of Milsom Street down through Union Street, Stall Street and Southgate Street. It will also include other popular areas in the centre such as Kingsmead Square, Sawclose and Terrace Walk.



Stalls outside the central shopping area of Bath

Stalls should comply with the general stall design principles however, although the Council will not require the same standards as for the centre of Bath, the stall will still need to be in keeping with its immediate surroundings.

Street Markets

Applications for temporary street markets will be taken on a case by case basis and the general stall design principles will still apply. Details of the number of stalls, the area to be used, the design of each type of stall, what each stall will be selling and the number of trading days and days taken to erect and dismantle the stalls will be required.

In certain circumstances planning consent may be required for street markets, for further information on whether or not this applies then the Council's Development Control team should be contacted.

Buskers Pitches

The Council have set up specific pitches for people who busk to sell items associated with their performance. These pitches will be in predetermined locations in the city centre. Items to be sold from the pitch must be relevant to the performance.

Mobile Stalls

These are the stalls such as ice cream vendors but do not include rounds men, which are exempt from the street trading legislation.

People intending to use a mobile stall should submit details of the vehicle or stall they intend to use, the items they intend to sell and details of the daily routes they intend to use.

Annex C- Existing Street Trading Policy

1 Purpose

- 1.1 Bath & North East Somerset Council's (the Council) street trading policy is to create a street trading environment which complements premises based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.

2 What is Street Trading?

- 2.1 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway *or other area to which the public have access without payment*.
- 2.2 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as 'consent streets' for street trading purposes.
- 2.3 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a Street Trading Consent from the Council.
- 2.4 The Council may also require Street Trading Consents for traders who operate in Council car parks, riverside walks and other similar areas where the public have access without payment.
- 2.5 The Council requires the organiser of any car boot sale or similar event on private land where the public have access without payment, to obtain a Street Trading Consent. The Council must be satisfied that the approval of the land owner has been obtained, and that the local police have no objections.
- 2.6 The Environmental Monitoring and Licensing Manager may consider issuing Street Trading Consents to organisers of events such as the Christmas Market, Farmers Markets, Street Markets, car boot sales etc. The organiser will thereby become a Principal Consent Holder which will allow them to be responsible for numerous traders operating in certain areas and/or for a limited time. However, both the Principal Consent Holder and individual traders will still be subject to the Council's Street Trading Policy and Standard Conditions in relation to street trading.

3 Exemptions from the need to obtain a Street Trading Consent

- 3.1 Some types of trade are legally exempt from the need to obtain a Street Trading Consent. These include:
 - a person trading under the authority of a Pedlars Certificate granted under the Pedlars Act 1871;

- trading as a news vendor within a maximum area of 0.25 square metres;
- trade carried on at a petrol filling station or at premises used as a shop or in a street adjoining premises and used as part of the business of the shop;
- trade carried out by roundsmen e.g. milkmen.

4 Pitches

- 4.1 The Council has identified suitable pitches for street trading. Details of these pitches can be obtained via the Council's website or by contacting the Council's Licensing team.
- 4.2 From time to time the Council may establish new pitches based on the criteria in paragraph 4.3 below.
- 4.3 In determining whether to create a street trading pitch the Council will have regard to:
- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving;
 - any loss of amenity caused by noise, traffic or smell;
 - existing Traffic Orders e.g. waiting restrictions;
 - any potential obstruction of pedestrian or vehicular access;
 - any obstruction to the safe passage of pedestrians;
 - the safe access and egress of customers and staff from the pitch and immediate vicinity;
 - any land owners permission. This may be required from a private land owner or the relevant Council Service e.g. Environmental Services (Open Spaces), Commercial Estates, or Tourism Leisure & Culture.
 - the sale of goods or services which conflict with those provided by nearby shops or existing trading pitches.

5 Applications

- 5.1 When an existing or new pitch becomes available, the Council may publish details inviting applications for the said pitch. The details will be published on the Council's website.
- 5.2 Applications will be determined by the Environmental Monitoring and Licensing Manager. If no suitable application is received the pitch will be re-advertised.
- 5.3 In situations where there are competing applications then the Environmental Monitoring and Licensing Manager will decide the most appropriate applicant in consultation with the Divisional Director Environmental Services and/or the Cabinet Member for Customer Services. The pitch will be offered to the applicant whose proposal is considered most suitable for the particular location.

- 5.4 A Street Trading Consent cannot be issued to a person under the age of 17 years.
- 5.5 Before a new pitch is created the Council will consult with and seek written observations from:
- occupiers of premises immediately adjacent and opposite where appropriate;
 - existing holders of Street Trading Consents in the immediate area;
 - relevant ward councillors;
 - relevant parish and/or town councils;
 - Avon & Somerset Constabulary;
 - relevant Council Services including Development Control; Highways; Property Services; Environmental Services (Open Spaces); Commercial Estates; Trading Standards; Tourism, Leisure & Culture; Asset Review Group; Parks and Open Spaces;
 - relevant land owner;
 - others as the Council's Licensing team considers relevant to the application (e.g. food safety team for food related pitches).

The Council may also consider any responses received in relation to public notices on the highway.

- 5.6 Current Street Trading Consent holders seeking to change the nature of their existing pitch may be subject to the same consultation as in 5.5 above.
- 5.7 Any objection from consultees will be assessed against the criteria in 4.3 above and may be referred to the appropriate Licensing Sub Committee for determination.
- 5.8 The complete application process may take up to three months, to take into account the consultation period, and in the case of contentious applications, a hearing before the relevant Licensing Sub Committee.

6 Nature of Goods and Trading Hours

- 6.1 The nature of goods which may be sold from any pitch and trading hours will be specified in the consultation process.
- 6.2 The Council would not normally grant a Street Trading Consent for the sale of goods or services which conflict with those provided by nearby shops or existing trading pitches.
- 6.3 Goods will normally consist of craftwork, fresh flowers, ice cream or soft drinks. Other types will be considered on a pitch by pitch basis and have particular regard to local needs shopping.

- 6.4 Street trading hours will normally mirror those of shops in the immediate vicinity. Extended trading hours will be determined on a pitch by pitch basis and may be allowed for special events such as the Christmas Market.
- 6.5 Late night food traders operating after 11 pm will be subject to the Licensing Act 2003 requirements regarding Premises Licences. Greater consideration will be given to the impact on the night time economy and possibility of crime and disorder on the streets as a result of the possible grant of a Street Trading Consent.
- 6.6 The design and appearance of the stall, barrow, van or cart etc. used must be agreed by the Environmental Monitoring and Licensing Manager.
- 6.7 Any subsequent substantial change to the Consent may be subject to the level of consultation in 5.5 above.

7 Issue of Street Trading Consents

- 7.1 Street Trading Consents will normally be issued for a period of three months. At the discretion of the Environmental Monitoring and Licensing Manager, consents for shorter periods may be issued for block bookings e.g. organised street markets, mobile street artists etc. Consents may also be issued annually for regular pitch holders.
- 7.2 Street Trading Consents will normally be issued for a minimum of six days per week, unless the applicant can provide an alternative scheme acceptable to the Environmental Monitoring and Licensing Manager.
- 7.3 Where a trader has been granted a Consent for six days a week then, at the discretion of the Environmental Monitoring and Licensing Manager, the Consent may be extended to seven days a week at no extra cost.
- 7.4 No refunds will be given if traders are unable to trade (subject to paragraph 8.7).
- 7.5 The transfer of Street Trading Consents is not permitted. If a consent holder no longer wishes to trade that persons consent will be terminated and the pitch will be advertised and a new consent issued.

8 Fees

- 8.1 Fees for Street Trading Consents must be paid in full in advance. In the case of quarterly re-issues, payments must be made on a quarterly basis and are due before the following dates:
 - 1 January
 - 1 April

- 1 July
- 1 October

At the discretion of the Environmental Monitoring and Licensing Manager, consideration will be given to allowing alternative arrangements, on a case by case basis, to making payments.

- 8.2 Failure to maintain payments as above may result in the Street Trading Consent not being re-issued. If a cheque is dishonoured by a bank this will result in the revocation of the consent unless payment is made in cash within 5 working days. In such cases an administration charge will also be imposed, and any early payment discount previously allowed will be withdrawn, leaving the full fee to be paid.
- 8.3 The Environmental Monitoring and Licensing Manager will determine any written request to increase the authorised pitch size, which may be subject to the level of consultation in 5.5 above and may incur an increased daily fee.
- 8.4 If a Street Trading Consent holder exceeds the authorised pitch size without permission from the Environmental Monitoring and Licensing Manager, an additional fee will be charged at a daily rate per extra square foot above the allowed area.
- 8.5 The fee structure will primarily reflect pitch location, trading days and hours.
- 8.6 The Divisional Director Environmental Services in consultation with the Cabinet Member for Customer Services has delegated authority to set fees and to annually review the fee structure.
- 8.7 The Council cannot guarantee that pitches will be available every day, and accepts no liability for loss of earnings in relation to Street Trading Consent holders or their employees. In the event of roadworks, utility or service repairs and other genuine circumstances that affect the use of any pitch, the Environmental Monitoring and Licensing Manager will consider appropriate refunds on a case by case basis, provided a request has been made in writing from the consent holder.
- 8.8 When a Street Trading Consent is surrendered or revoked the Council may refund the whole or part of any fee paid as they consider appropriate.

9 Street Trading Consents for which fees are not payable

- 9.1 The Environmental Monitoring and Licensing Manager may consider reducing or exempting fees for the following street trading activities:
- fetes, carnivals or similar community based and run events e.g. Keynsham Victorian Evening, Mardis Gras, Christmas Lights Switch on events etc.;

- non-commercial or charitable events;
- farmers markets (producer-managed market place for local producers to sell their own produce direct to local people);
- sales of articles by householders on land contiguous with their homes.

9.2 Charitable Street Trading

Persons may be permitted in any street or public place to collect money or sell articles for the benefit of charitable or other purposes. The Council issues permits for charitable street collections. Collections cannot be held in any street or public place unless the Promoter has obtained a permit.

In relation to charitable street trading, the Council have named a pitch at Kingston Parade, Bath as its official street trading charity pitch. This pitch will be available to any organisation that is a registered charity, or any organisation that can prove it is a 'not-for-profit' organisation. It will be subject to the Council's standard street trading conditions.

The charity using the pitch must be able to prove its non-profit status by providing any of the following proofs:

- A copy of their charity registration document;
- An official letter confirming the organisation is exempt from charity registration;
- A letter from the Inland Revenue if the organisation is recognised as a charity for income tax purposes;
- An official letter confirming that the organisation is a 'not-for-profit' organisation.

The charity must obtain permission from the Principal Consent Holder responsible for the pitch at Kingston Parade.

10 Mobile Street Artists

10.1 Mobile Street Artist Consents may be issued to persons who sketch or paint, and sell their own work and move from location to location.

10.2 Applicants for Mobile Street Artist Consents must give a minimum notice period of 48 hours to the Licensing Team in relation to their applications.

11 Mobile Traders

11.1 The Council may consider issuing Mobile Street Trading Consents to traders such as ice cream vans who operate within a specified area e.g. Radstock/Midsomer Norton, Keynsham or Twerton/Whiteway.

12 Conditions and Enforcement

- 12.1 Standard conditions will be attached to every Street Trading Consent and Mobile Street Artist Consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.
- 12.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.
- 12.3 Failure to comply with conditions may lead to revocation or the Street Trading Consent not being re-issued.
- 12.4 Persons trading without a Street Trading Consent and who are not exempt (see 3.1 above for examples) will be the subject of enforcement action in accordance with the Environmental and Consumer Services Enforcement Policy. This will include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act.
- 12.5 The Council will follow the principles set out in its Public Protection Enforcement Policy, which proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. More serious offences may result in a referral to the Licensing Sub-Committee, the issue of a formal caution or a referral for prosecution.

13 General

- 13.1 Through its tourism service and by other means, the Council will seek opportunities to promote street trading activities.
- 13.2 This policy will complement and inform other Council initiatives, policies and visions including those on street markets
- 13.3 This policy will be the subject of periodic monitoring and review.
- 13.4 This policy will inform the detailed conditions attached to every Street Trading and Mobile Artist Consent.
- 13.5 This policy will be applied in a manner which is consistent with the Council's equalities and enforcement policies.

The conditions below have been reworded and reproduced in red.

Standard Street Trading Conditions

- 1 The holder(s) of this Consent (the holder), or any person employed to work on the stall, must produce the Consent when required to do so by a Police Officer or a duly authorised officer of Bath & North East Somerset Council (the Council).
- 2 The holder shall return this Consent to the Council's Licensing Services immediately on revocation or surrender.
- 3 The holder shall trade strictly in accordance with this Consent.
- 4 The holder shall notify Licensing Services immediately of any convictions or proceedings arising out of the use of this Consent.
- 5 The holder shall not cause any obstruction of the street or danger to persons using it. The holder shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance, annoyance or danger to any persons lawfully using the street.
- 6 The holder shall not use or permit any music playing, music reproducing or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst trading under this Consent, unless varied by a special condition of this Consent.
- 7 The holder shall not place on the street, or affix to any equipment placed on the street, any advertising material, unless varied by a special condition of this Consent.
- 8 The holder shall not fix any equipment, nor make any excavations or indentations in the surface of the street.
- 9 The holder shall not use the street for any trading purpose other than as permitted by this Consent.
- 10 The holder shall not place on the street any furniture or equipment other than that permitted by this Consent. All such furniture or equipment must be maintained in a clean and tidy condition, and must not obstruct the entrance to, or exit from, any premises.
- 11 The holder shall not do anything in the street which may cause danger, nuisance or annoyance, damage or inconvenience to the Council, any adjacent/neighbouring premises, or to members of the public.
- 12 Unless acting as a Principal Consent Holder, the holder shall not transfer, assign or sublet this Consent, but he may surrender it at any time.

- 13 The holder shall observe and comply with any directions in relation to the use of the street given by the Council's Environmental Monitoring and Licensing Manager, or Directors of the Council's Property Services or Planning and Transport Development Services.
- 14 The holder shall keep his trading location and the immediate area in a clean and tidy condition during the permitted hours and at the end of each daily period of use, and shall provide a litter bin for their customers where necessary.
- 15 The holder shall not deposit any water or waste product into any street drain or channel, but shall dispose of it in an appropriate place.
- 16 The holder shall indemnify the Council and their agents, servants, workmen etc. from and against all proceedings, damages, claims or expenses in respect of an injury (including personal injury) which may be sustained in connection with the trading pitch and the provision of facilities under this Consent.
- 17 This Consent is issued on the understanding that the relevant and appropriate Public Liability Insurance is in place with a minimum cover of £5,000,000.
- 18 The holder must obtain permission from the Environmental Monitoring and Licensing Manager and the Council's Highways Department if they wish to utilise electrical power taken from the mains or a generator.
- 19 The Council may revoke this Consent at any time and shall not be liable to pay any compensation to the holder in respect of such revocation.
- 20 The holder, or any person employed to work on the stall, shall **at all times** wear the identification badge issued by Bath & North East Somerset Council whilst trading from the pitch. The badge shall be worn in a clearly visible position on the upper body.
- 21 Where a Street Trading Plate is issued it must be displayed in a clearly visible position where it can be read by prospective customers.
- 22 The holder shall return any Council issued identification badges and plates to Licensing Services immediately on revocation or surrender of this Consent.
- 23 The holder shall pay the street trading fees in advance. Quarterly fees shall be paid by 1 January, 1 April, 1 July and 1 October each year.
- 24 This Consent does not relieve the holder, or any person employed to work on the stall, of any obligation to comply with all other general and local legislation, and in particular the Road Traffic Acts; the Food Safety Act 1990; the Town and Country Planning Acts; the Control of

Pollution Act 1974; the Environmental Protection Act 1990; the Licensing Act 2003; any Orders or Regulations made thereunder; and local Byelaws. It shall be the obligation of the holder to familiarise themselves and their employees with any such legislation. The Council may revoke this Consent upon any breach.

Additional Notes:

- 1 Street trading in a consent street on foot or from a van, cart, etc.:
 - a) without a Street Trading Consent; or
 - b) not specifically permitted by a Consent; or
 - c) contravening certain conditions attached to a Consent;is an offence for which proceedings may be instituted.
- 2 A Street Trading Consent does not confer immunity from the provisions of any Street Parking Places Order or General Traffic Restriction Order. In case of doubt about the effect of any such Order, enquire at Licensing Services.
- 3 Schedule 4, paragraph 10 of the Local Government (Miscellaneous Provisions) Act 1982 provides as follows:
 - 1 A person who:
 - b) engages in street trading in a consent street without being authorised to do so under this Schedule: or
 - d) being authorised by a street trading consent to trade in a consent street, trades in that street:
 - i) from a stationary van, cart, barrow or other vehicle; or
 - ii) from a portable stall,without first having been granted permission to do so under paragraph 7 (8) (of this Schedule); or
 - e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.
 - 2 It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
 - 3 Any person who, in connection with an application for a street trading consent, makes a false statement which he knows to

be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

- 4 A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine to level 3 on the standard scale of fines (£1,000).

[Last updated 30.09.2010]

