

# Licensing Committee

**Date: Wednesday, 16th October, 2019**  
**Time: 10.00 am**  
**Venue: Council Chamber - Guildhall, Bath**

**Councillors:** Manda Rigby (Chair), Sarah Bevan, Sue Craig, Sally Davis, Michael Evans, Steve Hedges, Grant Johnson, Sarah Moore, Mark Roper, Karen Warrington and Ryan Wills



NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

Paper copies are available for inspection at the **Public Access points:-** Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

3. **Recording at Meetings:-**

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**Licensing Committee - Wednesday, 16th October, 2019**

**at 10.00 am 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: 17 OCTOBER 2018 (Pages 5 - 12)

8. LICENSING ACT 20013: REVIEW OF STATEMENT OF LICENSING POLICY AND REVIEW OF CUMULATIVE IMPACT ASSESSMENT (Pages 13 - 136)

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

01225 395090.

**BATH AND NORTH EAST SOMERSET**

**LICENSING COMMITTEE**

Wednesday, 17th October, 2018

**Present:-** Councillors Les Kew (Chair), Rob Appleyard, John Bull, Anthony Clarke, Deirdre Horstmann, Dine Romero, Will Sandry and Mark Shelford (in place of Michael Norton)

**Also in attendance:** Cathryn Brown (Team Manager Licensing and Environmental Protection), John Dowding (Senior Public Protection Officer), Cathy McMahon (Public Health Development), Celia Lasheras (Health Improvement Officer) and Shaine Lewis (Team Leader Resources - Legal Team)

**Guests:**

**28 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

**29 ELECTION OF VICE-CHAIR (IF DESIRED)**

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

**30 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillors Emma Dixon, Michael Norton and Peter Turner. Councillor Mark Shelford substituted for Councillor Dixon.

**31 DECLARATIONS OF INTEREST**

There were none.

**32 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

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

Mr Paul Roles made a statement.

He commended the Council for leading the way forward on the improvement of air quality. Many drivers want this, because they have to breathe the air of the city all day. There were, however, concerns about the proposed rules for the age of vehicles, namely less than 4 years for new vehicles and review of vehicles 10 years old. Euro 6 diesel engines were first introduced in September 2015, so vehicles of this standard could already be 3 years old. For financial reasons this is the ideal age for a vehicle to be brought into the taxi trade. Such vehicles are often ex-company and rental cars, which are frequently replaced after 42 months. They have often been serviced regularly to a high technical standard and are ideal for an independent

taxi driver in a small business to purchase. The Euro 5 diesel engine originated in 2011; vehicles of this type would be subject to review by the Licensing Authority in less than 3 years from now. The consultation on the Clean Air Zone had only begun the previous day; he suggested that any decisions on the revised taxi vehicle policy should be deferred until the consultation had been completed.

He then turned to the proposed conditions on the dress of drivers and showed some examples of shorts which he considered unacceptable and a pair of dress shorts, which he argued should be permitted. The big difference with dress shorts was that they had a belt. He said that in Florida there was a very high-class restaurant which admitted customers who wore dress shorts. As far as knew not one of the 292 licensing authorities in England had banned shorts. As for footwear, the overwhelming majority of drivers did not want flip-flops, because they considered them to be dangerous. High-heeled shoes were also not suitable footwear for taxi drivers.

The Chair thanked Mr Roles for his statement and assured him that his comments would be taken on board.

#### **34 MINUTES OF PREVIOUS MEETING: 11 JULY 2018**

The minutes of the meeting of 11 July 2018 were approved as a correct record and signed by the Chair.

A Member referred to paragraph 2.3 of the resolution on page 5 of the minutes (agenda page 9):

“To endorse the adoption of the revised Street Trading Policy provided at Annex E.”

and commented that as there was no Annex E to the minutes, it should be clarified where the Policy could be found.

#### **35 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AND ASSOCIATED CONDITIONS**

The Team Manager (Licensing and Environmental Protection) presented the report.

She said that that most of the proposed changes to the Policy related to three objectives:

1. Compliance with Bath's Clean Air Plan. The Taxi Policy and the Clean Air Plan had been co-ordinated, so that that they would both be considered at the meeting of the Cabinet in December. There had been positive conversations with the taxi trade about the use of electric vehicles.
2. The need for awareness training on child sexual exploitation.
3. The need to ensure that all drivers have the necessary English-speaking skills, in order to promote public safety. A test was proposed to ensure that all new applicants

have the necessary communication skills to be able to discharge the very responsible role of being a taxi driver.

There were other areas where changes were proposed, including taxi drivers' dress. Drivers would be expected to give a professional appearance as appropriate to people providing a service to the public. Consultees had made comments about specific issues such as shorts and flip-flops. The proposed condition on dress could be reworded if the Committee desired this. Alternative wording that Members might find acceptable might be "drivers shall at all times be respectably dressed and clean and tidy in their appearance" and examples could be given of unacceptable dress. If shorts are permitted, they should be professional-looking shorts and the condition should clarify what was meant by "professional-looking".

In view of the significant changes proposed there were a number of consultation initiatives. Every driver had been sent a copy of the proposed policy and conditions. There was also an online survey. Drivers were invited to a debate and about thirty attended. Feedback from the trade had indicated that they were generally happy with what was being proposed. Conversations with the trade were continuing.

Members made comments and asked questions to which the Team Manager (Licensing and Environmental Protection) responded.

#### **A. Drivers**

- It is right to require drivers to be tidy in appearance, but the Council should be wary of telling people specifically how they should dress, for example not to wear shorts. "Professional-looking" varies according to the nature of the profession. Who is to be the arbiter of what is appropriate? Rules about footwear are alright in so far as they relate to the driver's ability to control his/her vehicle.
- Perhaps the standard of dress could be specified as "smart casual" and then left for individual driver's taste.
- We should require drivers to be presentable, rather than lay down overly prescriptive rules.
- Are we really going to ban a driver for wearing the wrong clothes?
- I believe that a uniform for drivers would increase the confidence of customers that they were in the hands of a fit and proper person and a capable driver. If we do not impose a uniform, it is important that drivers should have a professional look, so I would be uncomfortable about shorts.

*The Team Manager (Licensing and Environmental Protection) responded that the wording of the condition on dress reflected specific comments made during the consultation. It was important that any conditions should be able to be enforced by officers, so ambiguity should be avoided.*

- How do you define what a suitable standard in English is? A strong regional accent can be a barrier to communication; are we going to specify BBC English?
- In a tourist city foreign language competence would be an asset for a driver. Could some kind of marker be put on the vehicles of drivers who are able to speak a foreign language?

*New applicants will be required to do an English competency test with a third party provider over the phone in the presence of officer. This will test their ability to construct sentences. A certain score will be set as the pass mark. It is something that other local authorities already require. Competence in a second language might be useful, but it is really important that all drivers have an acceptable command of English, particular in emergencies. The Council is in discussion with Bath College about the provision of English language training for drivers who do not pass the test. This would help them in their general life as well as with their role as a taxi driver*

- How would changes in the policy apply to Uber drivers?

*We cannot impose conditions on drivers licensed by other authorities who come to work in B&NES.*

## **B. Vehicles**

- Engine idling by taxi drivers should be addressed.
- Will charging points for electric cars be installed on taxi ranks?

*Engine idling is not just an issue with taxis, but with all vehicles, and mitigation measures should apply to them all. We are consulting with the trade about the location of charging points. They would probably be located near a rank rather than on the rank. The Senior Public Protection Officer added that it should be remembered that there will be electric private hire vehicles, which do not wait on ranks, as well as electric Hackney Carriages.*

- There was discussion in the past about taxis having a uniform colour to show that they were licensed by B&NES. Has that been considered as part of this review?
- Public safety should be the prime consideration. Whenever I have been abroad I have always felt safer getting into a taxi in cities where they do have a uniform livery. I accept that there are concerns about the cost of this to the trade, but there are inexpensive approaches that could be appropriate, like the use of magnetic strips or transfers.

*The consultation did not seek views on vehicle livery. We note that a number of other local authorities have imposed a uniform vehicle livery. Conversations with the local trade suggest that they would not support it and an authority-wide livery would be a really significant change. It is something that the Council will keep under review.*

- Do we know how many vehicles are close to the 5-year and 10-year age limits?

*An analysis has been done, but officers do not have the figures for the Committee today. It is known that a large percentage of vehicles are Euro 5 diesels, which would not comply with the requirements of the Clean Air Zone. There is a proposal to give these vehicles an additional year, so that they will have three years from now to comply.*

The Team Manager (Licensing and Environmental Protection) asked whether Members would be content with the following as an alternative to the draft condition relating to dress:

“Drivers will be expected to be respectably dressed and clean and tidy in appearance. Examples of unacceptable dress include flip-flops.”

A Member suggested that there should be a condition requiring footwear to be compatible with the safe control of the vehicle.

A Member said that judgments about what clothing was sexually suggestive would inevitably be subjective and might raise equality issues. Another Member responded that in the case of taxi and private hire regulation public protection had to outweigh equality issues. In order to give the public confidence it was not possible to rely on individual drivers’ discretion in this area.

A Member said that the policy could not spell out every detail, and that there would always be a need for judgment in specific cases. The Licensing Sub-Committee provided a mechanism for this.

A Member asked whether there had ever been complaints from the public about drivers’ dress. The Senior Public Protection Officer replied that from time to time he received general comments about drivers being scruffy, for example, but there had never been a formal complaint about the dress of a specific driver.

The Team Leader (Licensing and Environmental Protection) suggested that a way forward might be for Members to delegate to her the power to redraft the condition about drivers’ dress in the light of the discussion at this meeting.

It was **RESOLVED** unanimously:

1. To note the responses to the public consultation and the officer recommendations;
2. to delegate to the Team Manager (Licensing and Environmental Protection) the revision of the revised hackney carriage and private hire policy to reflect the discussion by the Committee before its presentation to Cabinet;
3. to recommend adoption of sections 165-167 of the Equality Act 2010 by Cabinet.

## 36 REVIEW OF GAMBLING POLICY

The Team Manager (Licensing and Environmental Protection) presented the report.

Members noted that this would be the fourth revision of the Council's Statement of Principles under the Gambling Act 2005. In preparation for this revision a public consultation had been carried out between 20 April and 12 July 2018. Responses received together with officer comments and recommendations were given in Appendix A to the report.

A Member said that she was concerned that some initiatives, such as requiring the gambling industry to give funding to Gamblers Anonymous or similar organisations, while being well-intentioned, did not always work as hoped. Organisations working with problem gamblers were often not comfortable about taking money from the gambling industry. She wondered whether alternatives for helping vulnerable people had been considered. The Team Manager (Licensing and Environmental Protection) agreed that this was challenging. Some gambling establishments had experimented with setting monetary thresholds for vulnerable customers, which would trigger intervention if exceeded, with the ultimate possibility of such customers being excluded from the establishment.

A Member said that he had seen a great deal of damage caused by gambling and was entirely opposed to it. He recognised that was not what Members were being asked on this occasion, but he had to be frank about his view.

A Member said that the Council should have an appropriate and proportionate approach, and should recognise that the world had changed with the many opportunities that now existed for gambling on line. He thought the revised Statement of Principles achieved this.

**RESOLVED** by 6 votes in favour and 1 against:

1. To note the responses to the consultation exercise and agree that the officer recommendations should be incorporated into the revised Statement of Principles;
2. To recommend that the draft Statement of Principles, provided in Appendix B of the report, is presented to Full Council for adoption.

## 37 ALCOHOL HARM - PRESENTATION

Cathy McMahon, Public Health Development & Commissioning Manager, and Celia Lasheras, Health Improvement Officer, gave a presentation. A copy of their PowerPoint slides is attached as an appendix to these minutes.

Following the presentation Members made comments and asked questions to which Ms McMahon and Ms Lasheras responded.

- Perhaps people admitted to hospital for alcohol abuse should be asked to pay.

- A Reading University study showed that in 1982 the real price of alcohol was the highest since the war and now it is one of the lowest.
- In some parts of the US supermarkets can only sell beer and wine and spirits are sold exclusively at state shops. Perhaps our Government could do something similar, since the availability and price of alcohol are inversely related to consumption.
- What has been the impact of minimum pricing for alcohol in Scotland?

*It is too early to tell.*

- The Licensing Act regime is a permissive one.
- Why are young people drinking less?

*We do not really know, but perhaps like smoking it has become less “cool”. Perhaps we have been successful in preventing drinking starting at younger ages. Experimentation amongst a small percentage of young people can start at 13/14 years and alcohol consumption amongst young people increases with age.*

- A paper published in Nature about five weeks ago had a survey which showed that the average weekly consumption of one large relatively well-off group of people was 600 units a week, with a range of 400-800 units. Until I read that paper I was opposed to minimum unit pricing, on the ground that it would be a tax on the poor. I now think it would be a strong incentive for better-off people to reduce their drinking. However, I believe that the Chief Medical Officer’s guidelines on alcohol was one of the most misleading documents ever to have been issued by Central Government. If the annex to that document is read closely, there is no evidence to justify a maximum limit of 14 units per week for both men and women. There is no other country in the world that has the same limit for men and women. The statistics for the harm caused by alcohol are skewed by the inclusion of all causes of mortality and morbidity, including violence. The social harm caused by alcohol should not be minimised in any way, but the best evidence is that medical harm only kicks in at 80 units a week for 2% of the population. There is little evidence of benefit from alcohol-free days; comparisons between France and Northern Ireland suggest that it is better to drink steadily throughout the week rather than to confine drinking to one day. However, the social benefits from reduced drinking are significant.

The Committee noted the presentation and expressed its thanks to Ms McMahon and Ms Lasheras.

The meeting ended at 12.16 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

<b>Bath &amp; North East Somerset Council</b>	
MEETING	<b>Licensing Committee</b>
MEETING DATE:	<b>16 October 2019</b>
TITLE:	<b>Licensing Act 2003 Review of Statement of Licensing Policy and Review of Cumulative Impact Assessment</b>
WARD:	All
<b>AN OPEN PUBLIC ITEM</b>	
<p><b>List of attachments to this report:</b></p> <p>Appendix 1- Responses to the public consultation with officer recommendations</p> <p>Appendix 2- Proposed Statement of Licensing Policy</p> <p>Appendix 3- Briefing on the Review of the Cumulative Impact Assessment</p> <p>Appendix 4- Analysis of Crime and Disorder data relating to licensed premises 2014-2019</p> <p>Appendix 5- Existing and Proposed Cumulative Impact Assessment Area</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 at least every 5 years. 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 Additionally, the Policing and Crime Act 2017 introduced into the Act a statutory basis for Cumulative Impact Assessments (CIA) and prescribed that existing cumulative impact policies should be reviewed either within 3 years of the legislation on CIA's being introduced, or, when the Statement of Licensing Policy is next due for review, whichever is sooner. The Council has carried out a review concurrently with the review of the Statement of Licensing Policy.
- 1.3 The report identifies the findings of a public consultation exercise and provides recommendations to the Committee prior to the Statement of Licensing Policy and the revised CIA being presented to Full Council in November 2019.

## **2 RECOMMENDATIONS**

The Committee is asked to;

- 2.1 Note the responses to the public consultation exercise and to accept the officer recommendations in Appendix 1.
- 2.2 Recommend the revised Statement of Licensing Policy and Cumulative Impact Assessment area provided in Appendix 2 are presented to Council in November 2019 with a recommendation that they are adopted.

## **3 THE REPORT**

- 3.1 The Council has completed a 12-week public consultation on the review of the Statement of Licensing Policy which it is obliged to do at least every five years. In addition, the opportunity has been taken to review the geographic area of the Cumulative Impact Assessment Area at the same time.
- 3.2 The Statement of Licensing Policy explains how the Licensing Authority will exercise its licensing functions under the Act. Central to the Licensing Policy Statement is the promotion of the four key licensing objectives:
  - The prevention of crime and disorder
  - Public Safety
  - The prevention of public nuisance
  - The protection of children from harm
- 3.3 Following the public consultation and the responses received, the proposed Statement of Licensing Policy is provided at Appendix 2.
- 3.4 The purpose of the Cumulative Impact Assessment is that it creates a rebuttable presumption that all applications for new premises licences or club premises certificates or variations which relate to “on trade” premises situated within an identified area will be refused if relevant representations are received. In this context, ‘on trade’ means the sale of alcohol for consumption on the premises. Further information is provided in the briefing paper at Appendix 3.
- 3.5 Following analysis received from Avon and Somerset Police regarding incidents of crime and disorder relating to ‘on trade’ licenced premises between 2014-2019 (Appendix 4), it is proposed that the area of the CIA is amended as shown in Appendix 5. Following the outcome of the public consultation on this proposal, some comments were received about crime and disorder in specific areas; Avon and Somerset Police have been asked to review the crime and disorder data relating to licensable activities in these areas and have confirmed the proposed area of the CIA.
- 3.6 In accordance with the Act, the public consultation included the persons/bodies listed in Section 9 and the statutory guidance issued under s. 182 of the Act states their views should be given appropriate weight when the policy is determined.

## **4 STATUTORY CONSIDERATIONS**

- 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 and in this instance the Cumulative Impact Assessment has been reviewed at the same time. Going forward the CIA will be reviewed every three years.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 There are no financial, property or people implications presented by the adoption of this policy and Cumulative Impact Assessment area.
- 5.2 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 cover costs only.

## **6 RISK MANAGEMENT**

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

## **7 CLIMATE CHANGE**

- 7.1 The Licensing Act 2003 and therefore the Statement of Licensing Policy is prescriptive and does not take account of the climate change agenda at this time. We look forward to changes in legislation which will allow the Council to take this into consideration in the future. In the meantime, individual applicants are encouraged to consider climate change issues in the operation of their businesses (if applicable).

## **8 OTHER OPTIONS CONSIDERED**

- 8.1 None.

## **9 CONSULTATION**

- 9.1 Advice has been sought from the Council's Monitoring Officer and the Group Manager for Building Control and Public Protection and the Section 151 Officer (Director of Finance) have had the opportunity to input to this report and have cleared it for publication.
- 9.2 A 12-week public consultation process has been carried out involving the following groups:
- All statutory consultees including the Chief Officer of Police, the Fire and Rescue Authority, persons/bodies representative of local holders of premises licences, club premises certificates, personal licences and businesses and residents in the area
  - All Councillors, Parish and Town councils
  - Presentation to the Climate Emergency and Sustainability Policy Development and Scrutiny Panel

- All licensees within the current Cumulative Impact Assessment area were contacted by letter inviting them to participate in the consultation
- Meetings were held with the following Residents Associations:
  - Abbey Residents Association
  - Circus Residents Association
  - Marlborough Lane and Marlborough Buildings Residents Association
  - Rosewell Court Residents Association
  - The Royal Crescent Society
  - The Vineyards Residents Association

24 responses were received and these are provided in Appendix 1.

<b>Contact person</b>	Cathryn Brown, Team Manager 01225 477645
<b>Background papers</b>	<a href="#">Revised guidance under Section 182 of the Licensing Act 2003</a>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

# APPENDIX 1- PROPOSED CUMULATIVE IMPACT ASSESSMENT AREA 2019

## PUBLIC CONSULTATION RESPONSES

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
1	B&NES Resident/ Councillor	I am surprised that the area is being reduced rather than enlarged to take into account where student and other young persons' activities take place in the City.	<p>The comments are noted with thanks.</p> <p>Student accommodation is not a consideration unless it impacts on the licensing objectives; there is no evidence to suggest that there is crime and disorder from licensable activities in locations of student accommodation.</p>	No change to proposed CIA boundary.
2	Marlborough Lane and Buildings Residents Association	<p>Last night at our committee meeting we discussed what our response should be.</p> <p>After some discussion we would urge the Council not to change the boundaries of the Cumulative Impact Area (CIA) on this occasion.</p> <p>While crime figures may be down in certain parts of the current CIA it remains a major concern to our members that Julian Road would cease to be included under the new</p>	<p>The comments are noted with thanks. There is no evidence to support the inclusion of Julian Road or park areas based upon crime and disorder from licensable activities at this time. However, the CIA must be reviewed in conjunction with the Statement of Licensing Policy or sooner if a need is identified. Any new evidence will be taken into account at the time of the next review.</p>	No change to proposed CIA boundary.

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>proposals. The area is still quite volatile, liable to change and has experienced a degree of deprivation in recent times.</p> <p>As you know if anything we would like the so called "green areas" to be included in the area where there is a presumption not to issue any licence. However I doubt that your exercise would cover such a suggestion. You are aware of our reasons for this suggestion.</p> <p>Our overall feeling is that the CIA has worked well in reducing crime in the City Centre area and therefore should not be prematurely changed. The CIA has enough licences to meet the current demand for alcohol in our view.</p> <p>Our views might be different in 5 years' time.</p>		
3	Royal Crescent Society	<p>Our view is that given the positive effect the current boundary has had to date in areas such as Walcot Street, we feel it would be unwise to risk jeopardising this progress in the future by reducing the boundary area.</p>	<p>The comments are noted with thanks. There is no evidence to support the inclusion of Julian Road or park areas based upon crime and disorder from licensable activities at this time. However, the CIA must be reviewed in conjunction with the Statement of</p>	<p>No change to proposed CIA boundary.</p>

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>We agree with the view of Marlborough Lane and Marlborough Buildings RA that ideally the boundary should extend to include the Julian Road area, given the ongoing problems with crime here and the existence of empty shops currently along this road which could in theory become licensed premises.</p> <p>As we discussed in the meeting, we would also ask if the possibility of an extension to the boundary to include Royal Victoria Park could be explored. Residents would not welcome, for example, an alcohol license being granted to Royal Crescent Lower Lawn.</p>	<p>Licensing Policy or sooner if a need is identified. Any new evidence will be taken into account at the time of the next review.</p> <p>The Council encourages residents to report any issues associated with licensed premises so that they can be investigated and used to support future public consultations on the cumulative impact assessment area.</p>	
4	The Royal Hotel, Bath	<p>Thank you for your letter of the 21<sup>st</sup> June advising us that you are reviewing the above statement for Bath City Centre.</p> <p>Patron Hotels and Restaurants Ltd, lease The Royal Hotel in Bath, where we have traded for some 25 years.</p> <p>Having read the revisions on your website, I am at a loss to understand why you think by increasing the amount of outlets selling alcohol in</p>	<p>Thank you for responding to our consultations regarding the Licensing Act and the proposed revision of the cumulative impact area.</p> <p>There is no intention to increase the number of outlets selling alcohol in the evening. Indeed, there is no intention to increase or decrease the number of outlets at all. The number of licences issued will depend on the number of</p>	No change to proposed CIA boundary.

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>the evening that this will reduce incidents of crime linked to alcohol, drunkenness, etc., etc. – experience tells one the opposite will be the case.</p> <p>Therefore, perhaps you would be kind to advise me what research the Council has carried out that convinces of them of this statement.</p>	<p>applications that will be received and issued in future. History tells us that a varying number of new licences are granted every year to add to the existing number. However, several licences are surrendered in any given year also.</p> <p>The cumulative impact area is proposed to be reduced based on evidence on crime and disorder provided by Avon and Somerset Police.</p>	
5	BANES resident/former councillor	<p>With reference to the proposed reduction of the perimeter of the CIA, I would request that the Council ensures the southern half of Walcot St is retained within its boundary.</p> <p>The northern boundary shown on the current revised map indicates a line running along Bennet Street, crossing the Paragon and intersecting Walcot Street. This point is the furthest south it should be allowed to shrink. Also, would be clearer if the north/south boundary continued to be drawn on the eastern side of the river to show that Walcot Street really is within the CIA.</p>	<p>The comments are noted with thanks.</p> <p>On a further review of the evidence from Avon and Somerset Police, there is no evidence to suggest that there is crime and disorder from licensable activities in this area. However, the CIA must be reviewed in conjunction with the Statement of Licensing Policy or sooner if a need is identified. Any new evidence will be taken into account at the time of the next review.</p>	No change to proposed CIA boundary.

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>The lower, southern half of Walcot Street is too close to the hottest part of ASB heat map and any new licensed premises in this part of Walcot Street would add to the overall negative impact. The evidence for this persists on Walcot Steps, between the Paragon and Walcot St. The graffiti, broken glass, drug paraphernalia, all point to a continuing problem with the night time economy and that a concentration of night time entertainment establishments must be avoided.</p>		
6	The Circus Area Residents Association (CARA)	<p>The Circus Area Residents Assoc committee have discussed the proposed changes to the area covered by the Cumulative Impact Assessment and do not feel able to support the removal of the area bounded by Julian Road, Marlborough Buildings and Royal Ave.</p> <p>The suggestion that the boundary be changed because of the lack of Police reports of related incidents in the area is a little spurious as any reports do not report the source of alcohol consumed by miscreants. At a recent Licensing hearing, reports of</p>	<p>The comments are noted with thanks.</p> <p>There is no evidence to support the inclusion of Julian Road or park areas based upon crime and disorder from licensable activities (i.e. alcohol sales) at this time. However, the CIA must be reviewed in conjunction with the Statement of Licensing Policy or sooner if a need is identified. Any new evidence will be taken into account at the time of the next review.</p>	No change to proposed CIA boundary.

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>antisocial behaviour were discounted because it could not be proven that the individuals had consumed excess alcohol at the event in question.</p> <p>The considered opinion is that the area should be expanded to include all of the lower part of Royal Victoria Park. This is a direct result of the increasing number of commercial events taking place in that area.</p> <p>It is the opinion that retention or increasing the area involved would not generate any additional workload but would provide an albeit limited protection for local residents.</p>		
7	Punch Taverns	<p>We note that your cumulative impact policy section makes only a brief reference to cumulative impact assessments ('CIA's'), with reference to 'Appendix 1'. It would assist if s. 15 were expanded to explain more about CIA's and the effect of them, including that cumulative impact policies need to be reviewed every 3 years, rather than the 5 for the policy itself.</p> <p>We note that the city centre Cumulative Impact Zone ('CIP') appears to be retained and to include a significant proportion of the city</p>	<p>The comments are noted with thanks.</p> <p>A fuller explanation will be provided in the final version following the completion of the public consultation and decision-making process.</p>	No change to proposed CIA boundary.

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>centre.</p> <p>We understand that there are occasions where CIP's provide a valuable tool to local authorities in regulating the night time economy. However, our experience is that they can also be an impediment to businesses and the development of a thriving night time economy.</p> <p>Punch, as a promoter of entrepreneurship within our estate of leased pubs understands very well the challenges that small business operator's face when looking to enter a new market or adapt their offer.</p> <p>Cumulative impact policies can have the effect of dissuading operators from even attempting to get a licence. This unintentionally penalises operators considering smaller more novel applications (simply because of the prohibitive cost), often resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy in the CIP. For the same reason, such policies also promote ubiquity and stagnation as the only operators willing to take on the risk and outlay of applying in</p>	<p>The CIA must be reviewed every 3 years and any new evidence will be taken into account on the next review.</p> <p>We acknowledge the comment about small/ independent operators and the council is willing to consider innovative applications as long as the licensing objectives are supported.</p>	

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>cumulative impact zones are larger established chains with the financial backing to fight for a licence. Given the plight of the pub market 7 years ago and now the casual dining market, in part because their offers failed to change as the market developed around them, the use of CIPs needs careful oversight- especially in large city centres, such as Bath.</p> <p>As such, we suggest that any CIP makes it clear that it will consider small, independent and/ or otherwise innovative applications both for new licences and variations to existing licences as being outside of the CIP. Such applications will still need to demonstrate that they do not undermine the objectives, but we would hope that adding something to this effect into the policy will stimulate and incentivise smaller operators to make applications. Whilst it may sound counter-productive for a pub company with licenses already granted in the area to support the growth of competition, we recognise that innovation and new operators stimulate the economy for established premises and can often lead to raising standards across the board.</p>		

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		<p>This can only be good in the long-term for everyone.</p> <p>Existing cumulative impact policies need to be scrutinised with an open mind. Stagnation will kill a vibrant area and CIP's, if left to choke the area they were designed to protect can do as much damage as good. We would suggest that if the CIP is to be maintained, specific types of licence are identified as being particularly problematic in certain areas, rather than just applying the CIP policy to all licensed premises. The Leeds City Centre CIP is a good model of this working in practice. This allows for an area to gradually adapt and change with the policy, so long as the policy then adapts and changes to the area.</p>		
8	Twerton Liberal Club	Due to the large amount of student accommodation already in place and proposed increase would suggest that the revised boundary be extended to include the Lower Bristol road (A36).	<p>The comments are noted with thanks.</p> <p>Student accommodation is not a consideration unless it impacts on the licensing objectives; there is no evidence to suggest that there is crime and disorder from licensable activities in locations of student accommodation.</p>	No change to proposed CIA boundary.

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
9	Resident and representative of, Pulteney Estates Residents Association (PERA)	<p>I am responding both as an individual resident and also on behalf of PERA - the Pulteney Estates Residents Association -</p> <p>We accept that the redrawing of the boundary of the cumulative impact boundary reflects the new situation on the ground, largely due to key premises closing or significantly changing their business models. However we consider that the extension across Pulteney Bridge incorporating Argyle Street, and the top of Grove Street should be included as these areas have recently seen a great increase in short term multi-occupancy holiday lets, with a many more in the process of being converted. This is likely to see an increase in the type of anti-social behavior that would qualify for this area to be included in a CIA.</p> <p>Furthermore, as with other resident groups, we did have one suggestion that BANES might consider, while acknowledging that it may fall outside what was envisioned by Cumulative Impact Assessment in the Act, we would propose including the river bank outside the Rugby Stadium and</p>	<p>The comments are noted with thanks.</p> <p>On a further review of the evidence from Avon and Somerset Police, there is no evidence to suggest that there is crime and disorder from licensable activities in the areas mentioned- short-term multi-occupancy lets are not licenced under the Act.</p> <p>The comments regarding any new rugby stadium are noted. As the CIA must be reviewed every three year any new evidence will be taken into account at the time of the next review.</p>	No change to proposed CIA boundary.

Response Number	Person(s) Making Response	Comments	B&NES Officer Response	Recommendation
		relevant adjacent streets and areas on the grounds that there is soon to be a substantial planning application which includes several new licensable premises in this area and that this is likely to greatly increase the cumulative impact within the timeframe of the review.		
10	Federation of Bath Residents Associations (FoBRA)	In addition to the proposals already made, while acknowledging that it may fall outside what was envisioned by Cumulative Impact Assessment in the Act, FoBRA proposes including the river bank outside the Rugby Stadium and relevant adjacent streets and areas on the grounds that there is soon to be a substantial planning application which includes several new licensable premises in this area and this is likely greatly to increase the cumulative impact within the timeframe of the review.	<p>The comments are noted with thanks.</p> <p>The comments regarding any new rugby stadium are noted. As the CIA must be reviewed every three years any new evidence will be taken into account at the time of the next review.</p>	No change to proposed CIA boundary.

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## APPENDIX 1-DRAFT STATEMENT OF LICENSING POLICY 2019

### PUBLIC CONSULTATION RESPONSES

Response Number	Person(s) Making Response	Para-graph	Comments	B&NES Officer Response	Recommendation
1	Health and Safety Executive, Bristol	N/A	<p>My advice on this matter is:</p> <p>"HSE [The Health and Safety Executive] is not a statutory consultee for statements of licensing policy; therefore, if requests for consultation are received, they should be declined on this basis".</p>	<p>The Guidance states:</p> <p>Responsible authorities</p> <p>8.7 The second group– “responsible authorities”– are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered ‘relevant’ by the licensing authority and relate to one or more of the licensing objectives. For all premises, responsible authorities include:</p> <ul style="list-style-type: none"> <li>• <b>the relevant enforcing authority under the Health and Safety at Work etc. Act 1974;</b></li> </ul> <p>The Council has always</p>	No changes to proposed policy.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
				notified HSE of these consultations.	
2	B&NES Development Management	9.4 & 16.2	<p>Please could you take into account my comments below when reviewing your Statement of Licensing Policy.</p> <p>In paragraph 9.4 it is stated that: '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.' I would suggest that for clarity the words 'change of use' are added as follows: In addition, if an application is granted by the Licensing Authority which involves a material change of use or alteration to a building, this would not relieve the applicant of the need to apply for planning permission.</p> <p>In paragraph 16.2 it is stated that: 'The licensing authority will encourage the use of other mechanisms for controlling</p>	These comments are noted with thanks and amendments will be made.	Amendments as per comments.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			problems caused by customers behaving badly and unlawfully once away from licensed premises. For example: 1. Planning controls. I'm not aware of any planning controls we can use to control the behaviour of customers once they have left a licenced premises. Our controls only relate to the use of the premises itself and therefore I would suggest that 'Planning controls' are removed from the list of examples to avoid false expectations being raised.		
3	Anonymous	N/A	<p>Can you please confirm how many TEN (Temporary Event Notice) applications can be made in a calendar year?</p> <p>Please clarify material changes made in this policy compared to the last policy in managing drugs within licensed premises in the city,</p>	<p>Please refer to this link where all TEN information is available - <a href="https://www.bathnes.gov.uk/services/business/licences/alcohol-and-entertainment">https://www.bathnes.gov.uk/services/business/licences/alcohol-and-entertainment</a></p> <p>There are no material changes made to the policy in respect of managing drugs within licensed premises in the city.</p>	No changes to proposed policy.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
4	Camerton Parish Council	29	<p>Response to Section 29 Temporary Event Notices.</p> <p>As there have been problems with noise emanating from temporary events in the past in this parish, we would like the licensing policy to be amended so that parish councils can be provided with an opportunity to comment on temporary event notices before they are approved.</p>	<p>These comments are noted with thanks.</p> <p>The Statement of Licensing Policy cannot be amended to include this request as the Licensing Act 2003 is prescriptive in this regard and does not allow for Parish Councils to be consulted prior to the approval of TEN's.</p> <p>However, if the Camerton Parish Council were to request to be placed on the weekly list to be notified of all licensing applications/ notifications then this can be arranged.</p>	No changes to proposed policy.
5	Vineyards Residents' Association		<p>As I explained, we have two main issues:</p> <p>Traffic along the Vineyards pavement of people after a night out in the city centre, who can be quite noisy and sometimes a nuisance (e.g. ringing the doorbell and running off). The reduction in</p>	<p>Thank you for these comments which are noted with thanks.</p> <p>As suggested, Planning and Licensing are two separate regimes and so the Council cannot insist on them both being the same. The Licensing Committee will give this consideration should a</p>	No changes to proposed policy or proposed CIA boundary.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>the size of the Cumulative Impact Assessment area is not likely to affect this problem, and so we are content with the proposed new area.</p> <p>Noise from specific establishments nearby. The Nest used to cause a lot of noise, and things have greatly improved since it closed a few months ago. We hope that whatever replaces it will generate less disturbance for the neighbourhood. The other place that our members at Hay Hill complain about is Mandalyn's in Fountain Buildings. They have a music licence to 2.30 am, 3 am on some nights, and loud music from there causes disturbance to our residents in Hay Hill. I have explained to them that in order for any action to be taken they must make complaints to Environmental Health; I have sent them a copy of the B&amp;NES Noise App. You confirmed that this was the</p>	<p>specific matter be brought to their attention that is relevant to the promotion of one or more of the licensing objectives.</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>right approach, and that if the nuisance was confirmed action could be taken via an Abatement Order, and the music licence could be reviewed. Personally, I find it odd that they have a music licence up to 3 am in the heart of a residential area.</p> <p>Finally, I mentioned the importance of keeping planning conditions and licensing in line; that is, not granting a licence which is less restrictive than the conditions of a planning consent. I appreciate that these are separate regimes, but they should be consistent; at the least, the licensing committee should be made aware of relevant planning conditions.</p>		
6	Englishcombe Parish Council	29	Englishcombe Parish Council would like to respond to the consultation on the Draft Licensing Policy in relation to paragraph 29 concerning Temporary Event Notices. In light of the noise related issues the Parish has had in the past in	<p>These comments are noted with thanks.</p> <p>The Statement of Licensing Policy cannot be amended to include this request as the Licensing Act 2003 is prescriptive in this regard and</p>	No changes to proposed policy.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			relation to temporary events this parish council would like all parish councils to be added to the list of consultees on the issuing of temporary event notices. This would assist with highlighting previous problems at events with a view to preventing recurrences of these issues at future similar events.	<p>does not allow for Parish Councils to be consulted prior to the approval of TEN's.</p> <p>However, if a specific Parish Council were to request to be placed on the weekly list to be notified of all licensing applications/ notifications then this can be arranged.</p>	
7	Dunkerton Parish Council	29	Dunkerton & Tunley Parish Council would like to respond to the consultation on the Draft Licensing Policy in relation to paragraph 29 concerning Temporary Event Notices. In light of the noise related issues the parish has had in the past in relation to temporary events this parish council would like all parish councils to be added to the list of consultees on the issuing of temporary event notices. This would assist with highlighting previous problems at events with a view to preventing recurrences of these issues at future similar events.	<p>These comments are noted with thanks.</p> <p>The Statement of Licensing Policy cannot be amended to include this request as the Licensing Act 2003 is prescriptive in this regard and does not allow for Parish Councils to be consulted prior to the approval of TEN's.</p> <p>However, if a specific Parish Council were to request to be placed on the weekly list to be notified of all licensing applications/ notifications then this can be arranged.</p>	No changes to proposed policy.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
8	Cllr Tom Davies, Walcot		Personally I feel that the presentation you gave at Scrutiny has provided me with a good understanding of the zone and the reasoning behind the change and I am happy with it. I have copied in Richard in case he has any further comments.	These comments are noted with thanks.	No changes to proposed policy.
9	Anon		<p>Main issues with licensing premises in Bath:</p> <ol style="list-style-type: none"> <li>1. No proper police presence, not enough officers and no 24hr police station in central Bath</li> <li>2. Too many street trading licenses are available considering the amount of empty shops, they take trade away from rent/rate paying tenants and make it much harder for existing bricks &amp; mortar traders to keep their businesses afloat. Fill the shops first.</li> </ol>	These comments are noted with thanks, however these issues fall outside of the current policy review.	No changes to proposed policy.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>3. The catering/alcohol licenses must have reached saturation point for a city of this size. More eating &amp; drinking establishments just spread existing trade &amp; do not create new business so detrimental in keeping current businesses viable.</p> <p>4. Need to ensure Bath does not become any more anti-social than it already is late at night on Fridays &amp; Saturdays.</p>		
10	The Abbey Residents Association		<p>Broadly, and because we recognise the limitations imposed on the Licensing Authority by legislation, we are supportive of the Policy as drafted.</p> <p>We particularly welcome the emphasis on best practice and the incorporation of example of best practice in the policy so that they can be taken into account in judging applications, enforcement activities and reviews.</p> <p>We would have liked to have</p>	<p>Thank you for these comments.</p> <p>The Licensing Authority are actively encouraging applicants to liaise with Residents Associations as well as seeking pre-application advice from the licensing team.</p> <p>We agree that engagement with local residents is desired and we actively encourage this.</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>seen more in that best practice about working with local residents and residents' representatives.</p> <p>Where licensees have shown a willingness to engage with local residents we have seen a significant reduction in complaints and real reductions in public nuisance. Examples include pre-application consultations, acceptance of conditions to hold regular meetings with residents, giving residents contact telephone numbers and participation in Nightwatch.</p> <p>We accept that the redrawing of the boundary of the cumulative impact boundary reflects the new situation on the ground, largely due to key premises closing or significantly changing their business models.</p> <p>We did have one suggestion that BANES might consider. While acknowledging that it would fall outside what was envisioned by Cumulative Impact Assessment in the Act, we would propose</p>	<p>The Council cannot include areas within the CIA on the basis of pre-empting future problems in relation to licensing objectives. The area around the Bath Rugby club will be monitored and should evidence be obtained that necessitates a revision in the CIA boundary then this will be considered in the future.</p>	

Response Number	Person(s) Making Response	Para-graph	Comments	B&NES Officer Response	Recommendation
			including the river bank outside the Rugby Stadium and relevant adjacent streets and areas on the grounds that there is soon to be a substantial planning application which includes several new licensable premises in this area and that this is likely to greatly increase the cumulative impact within the timeframe of the review.		
11	Stowey Sutton Parish Council		<p>At its meeting held on Wednesday 4<sup>th</sup> September 2019, it was resolved that Stowey Sutton Parish Council agreed the following response to the consultation proposals:</p> <p>Stowey Sutton Parish Council welcomes these consultation proposals on what was hitherto, in our experience, a very closed process with a lack of transparency.</p> <p>By the nature of the Act the focus is inevitably on the City of Bath, however more references to licensing applications and procedures in rural areas would be appropriate particularly in the light of recent experiences and</p>	Thank you for these comments.	No changes to proposed policy.

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>the substantial increase in events licensed by "Event Notices" in rural areas.</p> <p>Such events have a significant impact on local residents who have felt powerless to have any influence over applications or to make complaints.</p> <p>There are 2 elements to this consultation to which Stowey Sutton Parish Council will respond separately.</p> <ul style="list-style-type: none"> <li>- Licensing Act 2003: Review of the Statement of Licensing Policy – <a href="#">click here for all information</a>. This consultation covers the process of licencing throughout the entire B&amp;NES area &amp; is directly relevant to our parish.</li> <li>- Licensing Act 2003: Review of the Cumulative Impact Assessment Area – covers a geographical area in the centre of Bath. – <a href="#">click here for all information</a>. This consultation covers the</li> </ul>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>cumulative effect of licencing within a defined area in Bath &amp; is not directly relevant to our parish.</p> <p><u>Licensing Act 2003: Review of the Statement of Licensing Policy</u></p> <p>Whilst the Draft Statement of licencing policy is broadly an expression of common sense conditions which is largely derived from national policies, there are a number of areas of concern, particularly regarding Temporary Event Notices &amp; notification of parish councils and neighbours of applications.</p> <p>The relevant sections of the Statement of Licensing Policy are highlighted below, together with the areas of concern.</p> <p><b>Statement of Licensing Policy, section 7, Consultees, states;</b></p> <p><i>7.1 Before determining this policy the Licensing Authority has consulted with various stakeholders including, but not limited to:</i></p> <p><i>1. All Responsible Authorities</i></p>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p><i>2. Representatives of local holders of Premises Licences and Club Premises Certificates;</i></p> <p><i>3. Representatives of businesses and residents of the area;</i></p> <p><i>4. All Ward Councillors and Town and Parish Councils.</i></p> <p><b>Stowey Sutton Parish Council Comment</b></p> <p>No information is given detailing how Representatives of businesses and residents of the area &amp; Parish Councils will be informed in a timely manner of a licencing application or temporary event notice within their locality, recent history has shown that B&amp;NES council places the burden on each and every resident, business &amp; parish council to manually seek out and inspect the weekly licencing list, which is not currently presented in a manner making an efficient geographical or neighbourhood search possible, this places an undue burden on residents who must remember to manually inspect every application within the county every week to be properly informed of applications.</p>	<p>The Statement of Licensing Policy cannot be amended to include this request to specifically notify Parish Councils of every TEN as the Licensing Act 2003 is prescriptive in this regard and does not allow for Parish Councils to be consulted prior to the approval of TEN's.</p> <p>However, if a specific Parish Council were to request to be placed on the weekly list to be notified of all licencing applications/ notifications then this can be arranged.</p> <p>The Council is looking at how information on premises applications can be better</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>Where licencing applications are publicised B&amp;NES council use the Bath Chronicle, a weekly newspaper that is not widely distributed outside the city of Bath.</p> <p>This effectively disenfranchises residents, businesses &amp; parish councils within the rural areas of the county.</p> <p><b>Statement of Licensing Policy, section 23, Premises Licences, states;</b></p> <p><i>23.1 A Premises Licence will be required for the use of any premises, part of premises, or place for the following licensable activities:</i></p> <p><i>a. the sale of alcohol;</i>  <i>b. the provision of regulated entertainment;</i>  <i>c. the provision of late night refreshment.</i></p> <p><i>23.2 When making an application to the Licensing Authority, the applicant must also send copies of the application to all the Responsible Authorities, namely:</i></p> <p><i>a. Chief Officer of the Police</i>  <i>b. Fire &amp; Rescue Service</i>  <i>c. Trading Standards</i>  <i>d. Local Safeguarding Children's Board</i></p>	<p>presented on its website.</p> <p>There is no power for the Licensing Authority to insist on a specific periodical for applicants to use.</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p><i>e. Environmental Health Department</i>  <i>f. Local Planning Authority</i>  <i>g. Director of Public Health and where relevant:</i>  <i>h. Health and Safety Executive (e.g. for educational establishments)</i>  <i>i. Maritime Agency (e.g. for boats)</i></p> <p><i>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.</i></p> <p><i>23.3 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.</i></p> <p><b>Stowey Sutton Parish Council Comment</b></p> <p>Whilst the list of responsible authorities is prescribed nationally, there is nothing preventing B&amp;NES adding to this distribution list in their licencing policy &amp; in the interests of openness &amp; transparency simply including the relevant parish council in the distribution of licencing applications would go a long way towards improving community engagement.</p>	<p>Please see above comment.</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p><b>Statement of Licensing Policy, section 25, Club Premises Certificates, states;</b></p> <p><i>25.1 Club Premises Certificates will be issued to qualifying Clubs as defined in the Act, which carry out the following recognised activities:</i></p> <p><i>a. the supply of alcohol by, or on behalf, of the Club to, or to the order of, a member of the Club;</i></p> <p><i>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</i></p> <p><i>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.</i></p> <p><i>25.2 Besides making an application to the Licensing Authority, the applicant must also send copies of the application to all the responsible authorities, namely:</i></p> <p><i>a. Chief Officer of the Police</i></p> <p><i>b. Fire &amp; Rescue Service</i></p> <p><i>c. Trading Standards</i></p> <p><i>d. Local Safeguarding Children’s Board</i></p> <p><i>e. Environmental Health Department</i></p> <p><i>f. Local Planning Authority</i></p> <p><i>g. Director of Public Health and where relevant:</i></p> <p><i>h. Health and Safety Executive (e.g. for</i></p>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p><i>educational establishments</i>  <i>i. Maritime Agency (e.g. for boats)</i></p> <p><i>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.</i></p> <p><i>25.3 In the case of electronic applications the requirement to send copies to the responsible authorities will pass to the Licensing Authority.</i></p> <p><b>Stowey Sutton Parish Council Comment</b></p> <p>Whilst The list of responsible authorities is prescribed nationally, there is nothing preventing B&amp;NES adding to this distribution list in their licencing policy &amp; in the interests of openness &amp; transparency simply including the relevant parish council in the distribution of licencing applications would go a long way towards improving community engagement.</p> <p><b>Statement of Licensing Policy, section 29, Temporary Event Notices, states;</b></p> <p><i>29.1 Temporary Event Notices do not</i></p>	Please see above comment.	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p><i>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.</i></p> <p><i>29.2 A "Standard" TEN requires an organiser of a temporary event to give the Licensing Authority a minimum of 10 clear working days' notice.</i></p> <p><i>29.3 A "Late" TEN is a TEN received by the Licensing Authority 5–9 clear working days prior to the day of the event.</i></p> <p><i>29.4 "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.</i></p> <p><i>29.5 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</i></p>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p><i>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.</i></p> <p><i>29.6 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.</i></p> <p><b>Stowey Sutton Parish Council Comment</b></p> <p>Events held under Temporary Event Notices are becoming increasingly common in the area surrounding our parish &amp; whilst some are conducted reasonably &amp; within the spirit of such a notice, it has become increasingly common for these notices to be used for relatively large scale events with amplified music being played until 2 or 3am often on consecutive evenings, there appears to be no management regime in place within B&amp;NES to monitor the operation of these events as they</p>	<p>The Licensing Authority adheres to the current legislation and guidance in relation to TENS.</p> <p>All TEN's are risk assessed by both the Environmental Protection and Licensing Team's and visits are made during events if there are legitimate concerns about public nuisance or a breach of numbers for those attending.</p> <p>Any issues which arise will then be recorded and be used to influence representations on future applications.</p>	

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			<p>occur &amp; no "on call" environmental officers available to deal with breaches of attendance numbers or noise nuisance, simply an instruction to make representation the next working day, where complaints will be noted for consideration against future Temporary Event Notices at the same location.</p> <p>Processes should be in place to ensure that event holders adequately advertise the issuing of the "Temporary Event Notice" prominently at the proposed site &amp; the relevant Parish Council should be informed so that they can confirm this.</p> <p>The effect of multiple Temporary Event Notices within a localised area over a period of time should be considered.</p> <p><b>Statement of Licensing Policy, section 34, Prevention of Public Nuisance, states;</b></p> <p><i>34.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.</i></p>	<p>Where possible, checks are made regarding the advertising of notices, however over 1000 TEN applications are received per annum and so it is not possible to check every one.</p>	

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			<p><i>34.2 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.</i></p> <p><i>34.3 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.</i></p> <p><i>34.4 The Licensing Authority will consider in particular:</i></p> <p><i>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.</i></p> <p><i>2. The steps to be taken or proposed to be taken by the applicant to prevent</i></p>		

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			<p><i>litter and smell nuisance from the premises.</i></p> <p><i>3. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.</i></p> <p><i>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.</i></p> <p><i>5. Whether there is sufficient provision of public transport (including taxis and private hire vehicles) for patrons.</i></p> <p><i>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.</i></p> <p><i>7. The use of gardens and other open-air areas.</i></p> <p><i>8. The position or proposed position of external lighting, including security lighting that is installed inappropriately.</i></p> <p><i>9. Whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the</i></p>		

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			<p><i>vicinity.</i></p> <p><i>10. The steps taken or proposed by the applicant with particular regard to the recycling of glasses, bottles and cans from their premises.</i></p> <p><i>34.5 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.</i></p> <p><b>Stowey Sutton Parish Council Comment</b></p> <p>It is imperative that the requirements of the Statement of Licensing Policy, section 34, Prevention of Public Nuisance, is applied to Temporary Event Notices.</p> <p>In section 34.1 The Licensing Authority acknowledges its duty to protect the amenity of residents and businesses in the vicinity of licensed premises.</p> <p>In section 34.4 /1. The Licensing Authority states its duty to consider "<i>The proximity of noise</i></p>	<p>A TEN is not a Licence and conditions cannot be attached to a TEN unless placed by a Licensing Sub-Committee following a representation received from the Police or the Environmental Protection team.</p> <p>If problems occur in relation to noise issues at a TEN event, the problem should be reported to the Police or Environmental Protection team who will gather evidence and</p>	

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			<p><i>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".</i></p> <p>In section 34.4 /7. The Licensing Authority highlights the potential for noise nuisance caused by <i>"The use of gardens and other open-air areas"</i>.</p>	may be in a position to make a representation against any future TEN applications.	
12	Punch Taverns		<p>Punch is one of the UK's largest leased pub companies, with around 1300 pubs across the UK. From the spirit of our local community pubs, the energy of our lively city centre hot spots and sports bars, to the warmth and calm of our inviting country inns; our pubs are the heart of all we do.</p> <p>We are a business of people that love pubs! With a mixed estate of high quality leased, tenanted and retail pubs, our years of experience have enabled us to develop a leading proposition for</p>	These comments are noted with thanks.	

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			<p>those wishing to work with us and run a pub business of their own. We provide industry leading, tailored business support to our Publicans and develop market-leading, flexible agreements and retail concepts to suit all aspirations.</p> <p>Under the ownership of Patron and May Capital, we have exciting plans to grow our business: longer term through potential acquisition opportunities and – in the here and now – by substantially investing in our teams, our pubs and Publicans.</p> <p>Corporate Social Responsibility (CSR) is embedded across many elements of our business, from corporate fundraising to responsible retailing. We have dedicated teams in place to assist in ensuring that our premises operate to the highest standards. We strive to ensure that our pubs are not operating irresponsible drinks promotions or serving underage drinkers or those who are intoxicated.</p> <p>The Punch Buying Club, our</p>		

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			<p>online ordering and communications portal, also has a section dedicated to Risk Management providing our Publicans with a wide range of downloadable educational tools, advice and pub-friendly materials, which can be used pub managers and team members.</p> <p>As supporters of Drinkaware we do not condone irresponsible promotions and pricing of alcohol, and we have actively supported Drinkaware's campaigns to help tackle binge drinking amongst 18 to 25 year olds. Responsible retailing forms a key part of our Publican training and we provide clear guidance on current legislation and best practice. We also support industry led initiatives to promote responsible retailing and are active members of industry trade bodies such as British Beer Pub Association (BBPA) and the British Institute of Innkeeping (BII).</p> <p>We are pleased to be able to contribute to this consultation, we have always prided ourselves</p>		

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			<p>with working with Local Authorities and Responsible authorities.</p> <p>Punch operate 14 premises within Bathnes.</p> <p>We would like to make the following points some which are specific to the policy and referenced and some which are more general which we would ask be taken into account.</p> <p>This response is produced in relation to both the statement of licensing policy and cumulative impact assessment consultations. We would ask that it is read in relation to both documents as necessary.</p> <p><b>LEGISLATION, POLICIES AND STRATEGIES</b></p> <p><b>9 Relationship with planning policies</b></p> <p>We would also urge you to clarify in your policy that where conditions are stipulated on a planning permission, such as restriction on hours or activities,</p>	<p>The licensing authority deals with each application on its merits according to licensing issues.</p>	

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			<p>these do not need to be repeated in the premises licence, unless there is good reason to do so. Often conditions relating to extract systems, closing times of external areas, etc. appear on both permissions and on occasion they do not even mirror the other. This leads to additional and unnecessary expense for licence holders should such conditions need to be amended.</p> <p><b>12 Integrating strategies</b></p> <p>We feel that this policy would benefit from a more details section 12 relating to Integrating other guidance, policies, objectives and strategies into licensing decisions.</p> <p>Licensing policies works best when they reference, and indeed work with, other council strategic plans and policies. For instance, planning strategies and local cultural strategies often inform applicants for either new licences or variations to licences as to what the council are looking to do in terms of promoting culture, leisure use and night-time</p>	<p>Links are available on the Council's website and to incorporate all additional Council policies in the Statement of Licensing Policy would make it unwieldy.</p>	

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			<p>economy uses in a particular area.</p> <p>Often it can be difficult to find these documents online and therefore reference to them and indeed a general statement that the authority will take into account other strategies is both a pertinent and of benefit to applicants and responsible authorities alike.</p> <p>Links to specific strategies, will also assist new potential businesses to understand and factor in the likely costs of entry into the city.</p> <p><b>14 Cumulative Impact &amp; 15 Summary of B&amp;NES Council's Cumulative Impact Assessment</b></p> <p><b>CUMULATIVE IMPACT POLICY</b></p> <p>We note that your cumulative impact policy section makes only a brief reference to cumulative impact assessments ('CIA's'), with reference to 'Appendix 1'. It would assist if s. 15 were expanded to explain more about</p>	<p>Comments are provided in the CIA response document.</p>	

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			<p>CIA's and the effect of them, including that cumulative impact policies need to be reviewed every 3 years, rather than the 5 for the policy itself.</p> <p>We note that the city centre Cumulative Impact Zone ('CIP') appears to be retained and to include a significant proportion of the city centre.</p> <p>We understand that there are occasions where CIP's provide a valuable tool to local authorities in regulating the night time economy. However, our experience is that they can also be an impediment to businesses and the development of a thriving night time economy.</p> <p>Punch, as a promoter of entrepreneurship within our estate of leased pubs understands very well the challenges that small business operator's face when looking to enter a new market or adapt their offer.</p> <p>Cumulative impact policies can have the effect of dissuading</p>		

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			<p>operators from even attempting to get a licence. This unintentionally penalises operators considering smaller more novel applications (simply because of the prohibitive cost), often resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy in the CIP. For the same reason, such policies also promote ubiquity and stagnation as the only operators willing to take on the risk and outlay of applying in cumulative impact zones are larger established chains with the financial backing to fight for a licence. Given the plight of the pub market 7 years ago and now the casual dining market, in part because their offers failed to change as the market developed around them, the use of CIPs needs careful oversight- especially in large city centres, such as Bath.</p> <p>As such, we suggest that any CIP makes it clear that it will consider small, independent and/ or otherwise innovative</p>		

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			<p>applications both for new licences and variations to existing licences as being outside of the CIP. Such applications will still need to demonstrate that they do not undermine the objectives, but we would hope that adding something to this effect into the policy will stimulate and incentivise smaller operators to make applications. Whilst it may sound counter-productive for a pub company with licenses already granted in the area to support the growth of competition, we recognise that innovation and new operators stimulate the economy for established premises and can often lead to raising standards across the board. This can only be good in the long-term for everyone.</p> <p>Existing cumulative impact policies need to be scrutinised with an open mind. Stagnation will kill a vibrant area and CIP's, if left to choke the area they were designed to protect can do as much damage as good. We would suggest that if the CIP is to be maintained, specific types of</p>		

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			<p>licence are identified as being particularly problematic in certain areas, rather than just applying the CIP policy to all licensed premises. The Leeds City Centre CIP is a good model of this working in practice. This allows for an area to gradually adapt and change with the policy, so long as the policy then adapts and changes to the area.</p> <p><b>ADMINISTRATION OF LICENSING FUNCTIONS</b></p> <p><b>Licensing Hours</b></p> <p>18.4 We applaud the council's approach to licensing hours and the rejection of 'zoning'. We agree with the council's assessment.</p> <p><b>19 Conditions &amp; 22 operating schedule</b></p> <p>Whilst Punch recognise the importance of conditions on premises licences in certain circumstances, such as to prevent or to mitigate the potential risk of certain activities undermining the licensing</p>		

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			<p>objectives, we have a concern that more and more conditions are being placed on a licence that are then enforced as breaches of the licence in their own right. Licensing authorities are obliged to promote the 4 licensing objectives. Breaches of condition in and of themselves are an offence under Section 136 of the Licensing Act and on summary conviction can lead to an unlimited fine and/or up to 6 months in prison. It is important that this distinction is recognised in your policy and that breaches of condition in and of themselves are a matter for the Courts; whereas an undermining of the licensing objectives, which can happen with or without conditions being on the licence in any event, are the province of the licensing authority to deal with. We would suggest that this distinction is made in your policy as it will re-enforce the message both for responsible authorities and for operators who hold premises licences in your area.</p> <p>Punch has always been happy to work with licensing authorities in</p>		

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			<p>relation to conditions being imposed on a licence where they are necessary and proportionate to achieve an identifiable aim. However, we are concerned with the prevalence of standard conditions being used across all licences within any particular class, This has taken over from a proper analysis of the need for such conditions in the first place.</p> <p>In particular, we have seen a rise in conditions being imposed upon premises licences by responsible authorities, irrespective of the nature of the application being made. For instance, a variation to the plans attached to a licence to effect a simple alteration in layout and where there is no change in licensable activities, increase in customer area, or removal of internal lobbies, for instance, sometimes result in officers seeking to ride on the back of that application to impose conditions that are in no way relevant to it. The case of Taylor v</p> <p>Manchester City Council makes is clear that any conditions</p>		

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			<p>imposed on a premises licence when it is varied must relate to that application itself and should not stray into other areas that are not part of the application. It is important again that this is referenced in policy in order to prevent unnecessary hearings and often additional expense to applicants seeking to make simple changes to their licence but are then held to ransom by responsible authorities who know that operators are unlikely to challenge their right to impose such conditions where the cost would be send the matter to a hearing.</p> <p>We submit that the imposition of large numbers of conditions on a premises licence is self-defeating. Premises licences form one part of a significant number of regulatory requirements that must be observed by publicans and this is often forgotten by regulators who often only think in terms of their one area of expertise. This means that they often do not see the wood for the trees. Policies that set out an expectation of</p>		

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			<p>long operating schedules or worse, require officers to object to applications unless the applicant applies their standard conditions, place an unnecessary burden on operators without necessarily helping to promote the licensing objectives. The City of London licensing authority, for instance, will only impose conditions if deemed absolutely necessary. It is not unusual to see licences with only a handful of conditions.</p> <p>The reason for this is that they expect operators to promote the licensing objectives, not go through the motions of complying with conditions because they have to. Also, licences grandfathered in 2005 would, likely have few or no conditions on them. We have seen no evidence to suggest such premises have undermined the licensing objectives more than "conditioned licences."</p> <p>We would challenge any authority to suggest that this approach leads to more issues with licence holders undermining</p>		

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			<p>the objectives. If anything this clarity of approach means that operators are freed up to adapt their businesses as the demands of the market change, freeing up officers from having to undertake lengthy inspections of licences and then having to send out enforcement letters relating to conditions that are breached in the observation without any real evidence that the breaches themselves undermine the objectives. This in turn frees up resources for enforcement against poorly behaving premises and dealing with unlicensed operators.</p> <p><b>20 Enforcement</b></p> <p>We note that you have included reference to the council having adopted a 'Public Protection Enforcement Policy'. We suggest that it is made explicit in this policy that the Regulator's Code is also adopted. This is useful for all parties to licensing matters and recognises the important role that businesses play in local communities.</p>	<p>We do not feel it necessary to include this in the policy.</p>	

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			<p><b>26 Variation of Premises Licence or Club Premises Certificate</b></p> <p><b>Minor Variations</b></p> <p>We are pleased to see details about the minor variation procedure in your policy. However, we would suggest that a little more detail in terms of the bullets might assist in clarifying for both officers and applicants what might be considered a minor variation. We would propose that the following bullets are added to the list of what minor variations can be used for:</p> <ul style="list-style-type: none"> <li>• Make changes to layout that do not increase the customer area (beyond a de-minimis increase of, we would suggest, 10%).</li> <li>• (as an extension of bullet c.) Removal of conditions that are no longer relevant to the operation of the premises or are redundant following imposition of new law, such as the Regulatory Reform (Fire Safety) Order 2005.</li> </ul>		

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			<p><b>LICENSING OBJECTIVES</b></p> <p><b>Prevention of Crime and Disorder</b></p> <p>The prevention of crime and disorder is one of the 4 licensing objectives and clearly a major pillar of licensing legislation. However, we have become increasingly concerned that licensed premises are sometimes being unfairly held to a higher standard when it comes to prevention of crime and disorder than other public premises. For instance, when Police present evidence of crime and disorder in relation to licensed premises, they will often include references to any crime that is associated not just with the premises in terms of its operation as licensed premises but generally. For instance, the Police will often include reference to all calls where those calls have referenced the premises as a local landmark which can include anything from criminal activity from people who have not been customers of the premises,</p>	<p>The Licensing Authority is content with the way it currently interprets the Prevention of Crime and Disorder objective.</p>	

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			<p>offences in relation to taxis, or general disturbance and noise nuisance in a town centre where it cannot be said to be relevant to the premises.</p> <p>Premises licence holders will also often find reference to offences that are not relevant to the licensing objectives themselves. So, for instance, robberies at residential premises above a licensed premises are sometimes included. We feel it is important that the council recognise in their policy that these are matters that are not relevant to the prevention of crime and disorder licensing objective and that the licensing authority's expectation is that they will only be presented with evidence where it directly relates to the licensable activities being provided within the premises themselves.</p> <p>For a city like Bath this is especially important given the close proximity of premises and the need to fairly differentiate between incidents that are directly related to the</p>		

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			<p>management of particular premises and those that are not.</p> <p><b>Prevention of Public Nuisance</b></p> <p>The prevention of public nuisance licensing objective is to be widely interpreted, as set out in the Statutory Guidance. However, we often come across conditions imposed on licences, as well as the investigation of complaints that do not relate to public nuisance. For instance, conditions that refer to 'nuisance', rather than 'public nuisance', set a significantly higher barrier- one that was not intended by the Licensing Legislation. We also see this in terms of enforcement action where often enforcement officers will allege that a nuisance, often a private nuisance, has occurred and demand action under the terms of the premises licence.</p> <p>Clearly this is beyond that which was intended by Parliament and therefore we suggest that your policy reflects the need for public nuisance to be demonstrated and for conditions relating to</p>		

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			<p>nuisance to relate to public nuisance rather than any wider definition. In particular, we suggest that expressly stating that private nuisance is not a licensing objective would assist in all parties understanding what is and is not the remit of licensing legislation.</p> <p><b>Protection of children from harm</b></p> <p>We note that responsible authorities often request 'Challenge 25' as a standard condition. Many premises (especially multiple operators) operate Challenge 21 policies and have training and signage for this. To change it can be expensive and/ or time consuming. As such, we would suggest that the licensing authority would not expect responsible authorities to suggest a change to Challenge 25 where a premises is already trading with a different challenge policy, unless there have been identified risks to children at the specific premises. It would assist if the policy reflected this.</p>		

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			<p><b>OTHER MATTERS WE WOULD ASK YOU TO CONSIDER REFLECTING IN YOUR POLICY</b></p> <p><b>On and Off-Sales</b></p> <p>Recently we have become aware that the definition of on and off-sales has caused some confusion. In particular there appears to be confusion around whether an off-licence is required for customers to take drinks outside of a premises, for instance onto the pavement, and consume their drinks there.</p> <p>We contend that such a sale is an on-sale. If one considers the nature of the offence of selling alcohol without the appropriate licence, it is clear that the intention is that the person making the sale is the one who would be charged with the offence, rather than, say, the purchaser. Therefore, in selling a drink in an open container for immediate consumption, it cannot be argued that the publican has made anything other than an on-sale. It is</p>		

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			<p>inconceivable that the law intended that should this person step outside the premises, or indeed take that drink away with him, that this would somehow transform that on-sale to an off-sale. The terms 'on' and 'off' sales originate from the Licensing Act 1964. Analysis of the legislation (by reference to off-sales) demonstrates that all off-sales had to be intended to be sold for consumption away from not only the licensed premises but any land associated with that premises or land immediately adjoining it for them to be considered an off sale. The intention was to ensure that in a situation where a seller makes an on-sale, that on-sale does not become an off-sale simply by means of it being consumed in the immediate environment of the premises, such as an unlicensed garden or on the pavement outside the pub.</p> <p>As such, we feel that this needs to be clarified in the policy. We would propose a statement along the following lines:-</p>		

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			<p>"On and off-sales are defined by reference to the intention of the seller at the time of sale. A sale in an open container for immediate consumption at the premises is an on-sale. This extends to where the person who has purchased the drink at the bar and then consumes it either in a pub garden or on the pavement immediately outside the premises.</p> <p>An off-sale is a sale designed for consumption away from the premises and its immediate environs. This will usually be in a sealed container such as a bottle or can and the seller when selling that drink had no intention for the purchaser to remain at the premises to consume it".</p> <p><b>GDPR</b></p> <p>We note that the policy does not make reference to the GDPR</p> <p>One of the most significant changes in recent times has been the change to data protection legislation introduced</p>		

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			<p>via GDPR. Whilst the obvious effects of this regulatory change relate to protecting personal data held on behalf of individuals, such as social media, mailing lists, email data bases and various other forms of storage of someone else's data, there are other effects that need to be reflected in licensing policy.</p> <p>For instance, the requirement for CCTV at a premises licence is not only expensive to install, but we question the value of such systems in terms of crime prevention and detection, especially in smaller community pubs. However, it is now commonplace for police to demand CCTV in almost all premises and to insist upon complicated and demanding CCTV condition's to be added to premises licences. In addition, operators of CCTV systems have to consider the GDPR implications. In particular, anyone who stores data, including CCTV footage of individuals, which is classed as data for the purposes of GDPR, must be responsible for its safe collection, storage,</p>	<p>The Licensing Authority does not place CCTV conditions on a licence unless the applicant suggests it in the operating schedule. Any condition placed on a licence by the Licensing sub-Committee is appropriate and proportionate in the promotion one or more of the licensing objectives.</p> <p>It is the responsibility of the user to ensure that they comply with GDPR legislation and it is not necessary to include in this policy.</p>	

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			<p>usage and disposal. Handing over CCTV footage to Police officers in the active investigation of a criminal offence, such as a fight, would obviously be a legitimate reason for providing data. However, a condition with a general requirement to hand over CCTV at the behest licensing officer or police officer would arguably breach GDPR were it to be enforced. This means that there are numerous CCTV conditions on licences that would likely, were one to try and enforce them as they are written, cause an operator to breach GDPR.</p> <p>Similarly, club scan conditions need to be thought about in terms of GDPR and the obligations of the data holder. For instance, the time for which any data is stored and the purpose for storing that data needs to be made clear to people handing over their data. Again conditions that require such data to be handed over at the behest of an officer other than in investigating a criminal offence would in all likelihood breach</p>		

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			<p>GDPR.</p> <p>We feel therefore that this need to be addressed in the policy in order to ensure that conditions are updated to ensure compliance and that CCTV in particular is not being universally required where there is no real and pressing need for it.</p> <p><b>Agent of Change</b></p> <p>Whilst we recognise that the principle is currently being debated in terms of planning, it is equally as important in licensing. We recommend that the licensing policy expressly recognises that developers of new residential developments need to protect their buyers from potential sources of noise disturbance, not expect existing licensed premises to have to adapt their offer to accommodate the new development. In particular, small pubs often rely on live or recorded music, provision of social events and other community based promotions, such as beer festivals, in order to survive and thrive.</p>	<p>The Licensing Authority is aware of recent legislation in relation to agent of change. Every decision of the Licensing Sub-Committee will take into account this and no addition to the policy is necessary.</p>	

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			<p>We have, unfortunately, seen a rise in complaints and reviews directed at existing premises that have often been at the heart of the community for over a century, from residents moving into new properties nearby. Whilst it is incumbent upon licence holders to promote the licensing objectives, it is iniquitous and arguably a breach of their Article 1, Protocol 1 human right to peaceful enjoyment of property, which includes their premises licence, to have their livelihood threatened and sometimes taken away because of poorly designed and constructed residential property built next door.</p> <p><b>Tables and Chairs licences</b></p> <p>External areas, especially gardens and enclosed spaces laid out to tables and chairs, are often attractive in their own right, as well as promoting businesses. Where they are on council land, they can be useful sources of revenue for local authorities. We would ask that your policy refers to any tables and chairs policy in</p>	<p>The process for applying for a tables &amp; chairs permit is available and easily accessible on the Council's website. There is no need to provide a link or explanation in this policy as we are mindful that the policy will become too big and unwieldy if every link and piece of advice were to be included.</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			place, with links to where application forms can be found on the council website etc. Whilst not strictly related to the Licensing Act 2003, the council policy document is a useful guide to licence holders and the more information that can be provided about ancillary matters, the more likely it is that licence holders and applicants will use this resource.	Our aim is to make the policy easy to understand and manageable.	
13	Nigel Wepster, PERA		<p>I am responding both as an individual resident and also on behalf of PERA - the Pulteney Estates Residents Association - with circa 300 households in membership - whose Committee have agreed the below:-</p> <p>PERA's response to the Licensing Policy Consultation is as follows:-</p> <p>We particularly welcome the emphasis on “best practice” and the incorporation of example of best practice in the policy so that they can be taken into account in judging applications, enforcement activities and reviews.</p>	<p>These comments are noted with thanks.</p> <p>The Licensing Authority are actively encouraging applicants to liaise with Residents Associations as well as seeking pre-application advice from the licensing team.</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>We would like to see more in that “best practice” about working with local residents and residents’ representatives.</p> <p>Where licensees have shown a willingness to engage with local residents we have seen a significant reduction in complaints and real reductions in public nuisance. Examples include pre-application consultations, acceptance of conditions to hold regular meetings with residents, giving residents contact telephone numbers and participation in Nightwatch.</p>	<p>We agree that engagement with local residents is desired and we actively encourage this.</p>	
14	Robin Kerr, Chair, FoBRA		<p>FoBRA commends the emphasis in the draft policy on best practice and the incorporation of examples of best practice. However, we should have liked to have seen more in that best practice about working with local residents and residents’ representatives. Where licensees have shown a willingness to engage with local</p>	<p>These comments are noted with thanks.</p> <p>The Licensing Authority are actively encouraging applicants to liaise with Residents Associations as well as seeking pre-application advice from the licensing</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			residents, significant reductions in complaints and real reductions in public nuisance have been seen. Examples include pre application consultations, acceptance of conditions to hold regular meetings with residents, giving residents contact telephone numbers and participation in Nightwatch.	team.  We agree that engagement with local residents is desired and we actively encourage this.	

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## 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 2017 Bath won a seventh Purple Flag for its night time economy.

- 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. A key element of the City's Enterprise zone will be a mixed development of shops, restaurants and homes in Bath Quays which will be complete by 2021.

- 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 licensed premises are 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 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. It was last reviewed in 2014 and published in January 2015.
- 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 fueling 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 young and vulnerable persons within the population. 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.
- 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 In accordance with the Secretary of State's Guidance, the Licensing Authority acting as a Responsible Authority 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 responsible for the administration of the application or review process.
- 3.8 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 continue to be more widely addressed within Bath & North East Somerset's Alcohol Harm Reduction Strategy and subsequent revisions.

## 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).

## 5 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

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 the end 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 41 (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 19 (Conditions) the only conditions which should be imposed on a Premises Licence or Club Premises Certificate are those which are appropriate, 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 19 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 Licence the Licensing Authority has a duty to include those conditions on the licence.
- 6.10 Subject to paragraph 39 (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.
- 6.12 Where appropriate and necessary, the Licensing Authority will seek advice about safeguarding issues from relevant Council officers to ensure that any safeguarding issues are effectively addressed.

## **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. The Human Rights Act 1998, with particular regard being given to Article 6, Article 8 and Article 1 of the first Protocol;
  3. The Equalities Act 2010.
- 8.2 The impact of this policy will be monitored through the completion of an Equality Impact Assessment.

### **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 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 change of use or 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 24 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 Integrating Strategies**

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

## **13 Regulated Entertainment**

- 13.1 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.
- 13.2 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.
- 13.3 The Licensing Authority will ensure that only appropriate, proportionate and reasonable licensing conditions are attached to such authorisations.
- 13.4 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. However, any external organiser wishing to host an event within these public spaces would require the permission of the Council and would

need to apply for a premises licence or submit a Temporary Event Notice, according to the proposed activities, timings and the number of persons expected to be in attendance.

- 13.5 Performances of live music have been further encouraged following the Government’s partial deregulation of entertainment activities. Amplified live music performed on premises licensed for the sale of alcohol by a premises licence or club premises certificate, or performed at any unlicensed “workplace”, is no longer regarded as being “regulated” under the Act, **when** the performance takes place:
- on any day, and at any time between 08:00 and 23:00 hours; and
  - before an audience of no more than 500 people.
- 13.6 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.
- 13.7 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 re-instated or new conditions to be added.
- 13.8 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.
- 13.9 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.

## **14 Cumulative Impact**

- 14.1 The concept of Cumulative Impact- relates to the potential impact a significant number of licensed premises concentrated in one area, may have on the promotion of the licensing objectives. Serious problems associated with nuisance, crime and disorder may be prevalent outside, or in the locality of these licensed premises for example when people are leaving premises at peak times, queuing for public transport or congregating outside fast food outlets.
- 14.2 Cumulative impact was not specifically mentioned in the Licensing Act 2003, however the Guidance to the Act acknowledged that it was “a proper matter for

a licensing authority to consider in developing its statement of licensing policy and set out the steps Licensing Authorities were to take when considering whether to adopt a cumulative impact policy.

- 14.3 In 2007, after identifying concerns, and collating robust evidence relating to public nuisance, crime and disorder within a specific geographic area of Bath City Centre, BANES Council introduced, and regularly monitored, its Cumulative Impact Policy.
- 14.4 The Policy created 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, would be refused if relevant representations were received.
- 14.5 With effect from 6 April 2018 “Cumulative Impact Assessments” were introduced into the Licensing Act at section 5A, by virtue of s. 141 of the Policing and Crime Act 2017. Licensing Authorities may publish Cumulative Impact Assessments where there is evidence to show that the number or density of licensed premises, or a particular type of premises, is having a cumulative impact and leading to problems that are undermining the licensing objectives.
- 14.6 Section 5A sets out what a licensing authority must do in order to publish a Cumulative Impact Assessment, or where a special policy already exists, the time within which such policies should be reviewed.
- 14.7 Any decision to publish or review a cumulative impact assessment must be evidenced based.

## **15 Summary of B&NES Council’s Cumulative Impact Assessment**

- 15.1 B&NES Council is currently reviewing their Cumulative Impact Policy in line with s.5A of the Licensing Act 2003 and this section will be updated following completion of the public consultation and decision-making process.

## **16 Control of Anti-Social Behaviour, Crime and Disorder away from Licensed Premises**

- 16.1 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.

- 16.2 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. Positive measures to create a safe and clean town centre environment in partnership with the Bath Business Improvement District (BID), local businesses, transport operators and other departments of the Council.
  2. The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
  3. Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices for relevant offences.
  4. The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
  5. The confiscation of alcohol from adults and children in designated areas.
  6. 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.
  7. The power of the police, other responsible authorities or any other person to seek a review of the licence or certificate in question.
- 16.3 The Licensing Authority will endeavour to work in partnership with others to promote common objectives.

## **Administration of Licensing Functions**

### **17 Applications**

- 17.1 Incomplete applications will not be accepted. Applications will only be considered where the relevant documentation and the fee accompany them.
- 17.2 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.
- 17.3 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.
- 17.4 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.

17.5 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 the operating schedule.

17.6 The Council offers a pre-application advice service to businesses to enable them to access relevant guidance tailored to their application. Information about this service can be accessed via:

<https://www.bathnes.gov.uk/services/business/licences/pre-application-advice>

## 18 Licensing Hours

18.1 With regard to licensing hours the Licensing Authority will consider each case on its individual merits.

18.2 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.

18.3 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.

18.4 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.

18.5 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.

18.6 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.

## 19 Conditions

- 19.1 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.
- 19.2 If no relevant representations are received, the application **must** be granted on 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.
- 19.3 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.
- 19.4 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.

## 20 Enforcement

- 20.1 Enforcement will be in accordance with the Public Protection Service Enforcement Policy, which is based around the principles of consistency, transparency and proportionality, as set out in the Government’s Enforcement Concordat.
- 20.2 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.
- 20.3 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.

20.4 The Licensing Authority will employ officers to investigate allegations of unlicensed activities and to ensure all conditions are fully complied with.

## 21 Drugs Policy

21.1 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 ensure the safety of all those attending such events and taking account of any relevant government guidance. Premises should have a robust drugs policy which assists operators in identifying the risks of drugs associated with events and contains effective measures to safeguard the welfare of both customers and staff.

## 22 Operating Schedules

22.1 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.

22.2 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.

22.3 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.

22.4 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.

22.5 The Operating Schedule should include the following:

- a. Details of the relevant licensable activities to be conducted on the premises;
- 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 security staff etc.;
  - g. Any other prescribed matters.
- 22.6 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.

## **23 Premises Licences**

- 23.1 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.
- 23.2 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

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.

- 23.3 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.

## **24 Provisional Statements**

- 24.1 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.
- 24.2 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.
- 24.3 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.
- 24.4 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.

## **25 Club Premises Certificates**

- 25.1 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 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.

25.2 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.

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

25.4 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.

## **26 Variation of Premises Licence or Club Premises Certificate**

26.1 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 Authority will consider whether the application has been properly advertised.

26.2 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.

26.3 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

26.4 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.

26.5 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. These 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 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.

## **27 Personal Licences**

27.1 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.
- e. Their right to work in the UK and provide the relevant documentation

**27.2 The Authority will reject any application where points a, b, c or e above are not met.**

27.3 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.

## **28 Designated Premises Supervisors**

28.1 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.

28.2 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.

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

28.4 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.

## **29 Temporary Event Notices**

- 29.1 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.
- 29.2 A “Standard” TEN requires an organiser of a temporary event to give the Licensing Authority a minimum of 10 clear working days’ notice.
- 29.3 A “Late” TEN is a TEN received by the Licensing Authority 5–9 clear working days prior to the day of the event.
- 29.4 “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.
- 29.5 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. Unlike a Standard TEN 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.
- 29.6 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.

## **30 Transfer of Premises Licences**

- 30.1 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.
- 30.2 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.
- 30.3 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.

### **31 Interim Authority Notices**

- 31.1 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.
- 31.2 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.
- 31.3 At the end of the three months it will lapse unless an application for a transfer of premises licence holder is made.
- 31.4 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.
- 31.5 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 consider the Notice.

## **Licensing Objectives**

### **32 Prevention of Crime and Disorder**

- 32.1 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. CB to check this with Sam Jones

- 32.2 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.
- 32.3 The Licensing Authority will consider whether the grant of an application will result in an increase in crime and disorder.
- 32.4 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.
- 32.5 The Licensing Authority will continue to play an active part in the development of Pubwatch/Nightwatch and other such schemes.
- 32.6 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.
- 32.7 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 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.
- 32.8 The Licensing Authority would also recommend that all Designated Premises Supervisors undergo appropriate additional training and have experience commensurate with the nature and style of entertainment provided and capacity of the premises.

### **33 Public Safety**

- 33.1 The Licensing Authority has established protocols with the local Police on enforcement issues to enable a more efficient deployment of Licensing Authority staff and police officers who are engaged in enforcing licensing law and the inspection of licensed premises.
- 33.2 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.
- 33.3 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.
- 33.4 From time to time premises are inspected by Council Officers, the Police and/or the Fire and Rescue Service for purposes of ascertaining compliance with the Act or associated Legislation or Regulations.

- 33.5 During the application period the Responsible Authorities might decide to carry out their own inspections.
- 33.6 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.
- 33.7 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.
- 33.8 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.

#### **34 Prevention of Public Nuisance**

- 34.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.
- 34.2 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.
- 34.3 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.
- 34.4 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.
  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.
- 34.5 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.

## **35 Protection of Children from Harm**

- 35.1 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.
- 35.2 It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

- 35.3 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.
- 35.4 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.
- 35.5 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.
- 35.6 The Licensing Authority will judge the merits of each application before deciding whether to impose conditions limiting the access of children to individual premises.
- 35.7 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.
- 35.8 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.
- 35.9 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.
- 35.10 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.
- 35.11 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.
- 35.12 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.
- 35.13 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.
- 35.14 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.
- 35.15 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.

- 35.16 The Licensing Authority will expect the Operating Schedule to satisfactorily address safety issues including the supervision of children.

## **Complaints Regarding Licensed Premises**

### **36 How Complaints Will Be Dealt With**

- 36.1 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 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.

- 36.2 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.

- 36.3 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**

- 36.4 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](mailto:licensing@bathnes.gov.uk)

Via the website: [www.bathnes.gov.uk/forms/licensed-premises-complaint-form](http://www.bathnes.gov.uk/forms/licensed-premises-complaint-form)

By telephone: 01225 477531

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

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

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

## Decision Making

### 37 Licensing Committee Terms of Reference

- 37.1 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.

### 38 Allocation of Decision making Responsibilities

- 38.1 The table on page 36 duplicates the Table of Delegations of Licensing Functions as set out in the Council's Constitution.

### 39 Relevant Representations

- 39.1 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.
- 39.2 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.
- 39.3 Representations may take the form of an objection, or be positive, and express support of the application.
- 39.4 A representation will not be relevant if the case officer deems it to be frivolous or vexatious.
- 39.5 Representations made by any Responsible Authority or other person which are subsequently withdrawn, will not be regarded as "relevant".
- 39.6 '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.
- 39.7 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.

#### **40 Other Considerations**

40.1 The Licensing Authority will give reasons for its decisions. The Licensing 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.

#### **41 Reviews**

41.1 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.

41.2 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.

41.3 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.

41.4 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.

41.5 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.

41.6 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.

- 41.7 Where a relevant application is received the Licensing Authority will advertise the application and hold a hearing to determine the review application.
- 41.8 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.
- 41.9 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.

## **42 Appeals**

- 42.1 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.
- 42.2 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.
- 42.3 An appeal against the grant or refusal of a personal licence application must be made to the Magistrates' Court.
- 42.4 Schedule 5 to the Licensing Act 2003 sets out entitlement to appeal.

## **Fees**

### **43 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 reviewed as necessary.

## **Late Night Levy**

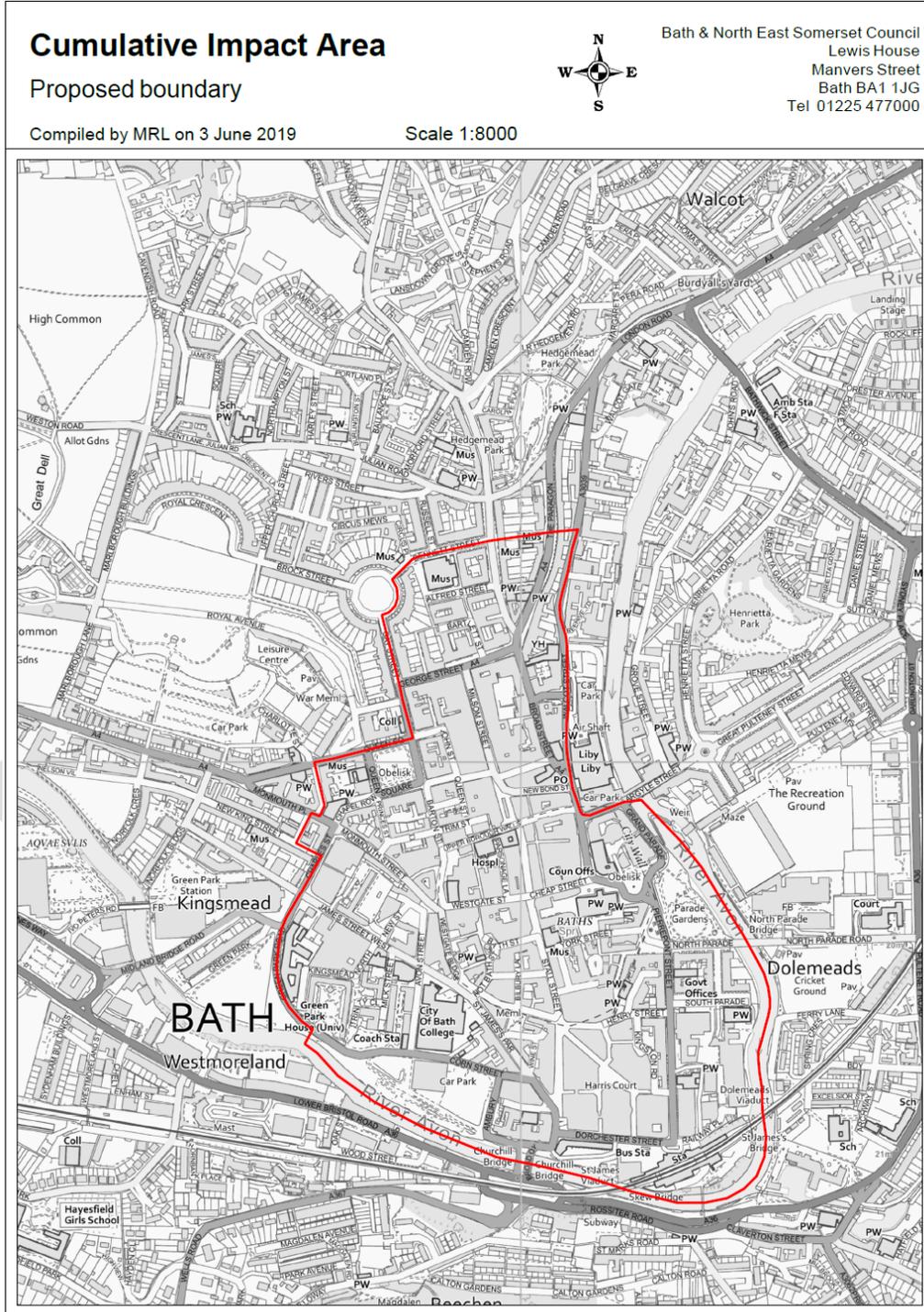
### **44 Late Night Levy**

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.

## 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 Standard 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	

# Map Outlining the Proposed Cumulative Impact Policy area for Bath City Centre- (this will be updated following completion of the public consultation and decision-making process)



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## Further Information

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

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

Tel: 01225 477531  
Email: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)  
Website: [www.bathnes.gov.uk](http://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:**

Building Control and Public Protection  
Bath & North East Somerset Council  
Lewis House  
BATH  
BA1 1JG

Tel: 01225 477563  
Email: [Public\\_Protection@bathnes.gov.uk](mailto:Public_Protection@bathnes.gov.uk)  
Website: [www.bathnes.gov.uk](http://www.bathnes.gov.uk)

**The Licensing Act 2003 can be viewed online at:**

[www.opsi.gov.uk/acts/acts2003/ukpga\\_20030017\\_en](http://www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en)

## Appendix 3: Review of Cumulative Impact Assessment 2019

### 1. Introduction

1.1 On 6 April 2018, s.141 of the Policing and Crime Act 2018 came into force which introduced s.5A of the Licensing Act 2003. This change related to “Cumulative Impact Assessments” (CIAs).

1.2 Prior to this date, policies relating to cumulative impact zones/cumulative impact areas had no statutory footing- they were creatures of guidance that many Authorities included within their Statement of Licensing Policy.

1.3 As Cumulative Impact Policies were not included in the Licensing Act 2003, no transitional provisions were made in respect of any cumulative impact policies that existed before 6 April 2018. It is recommended therefore that existing cumulative impact policies should be reviewed either within 3 years of the legislation on cumulative impact assessments being introduced, or, when the statement of licensing policy is next due for review, whichever is sooner. B&NES Council has chosen to carry out a review concurrently with the review of the Statement of Licensing Policy.

1.4 Licensing Authorities must have regard to any Cumulative Impact Assessments (CIAs) published by it under s.5A Licensing Act 2003 when determining or revising their Statement of Licensing Policy, and explain how this duty has been discharged.

### 2. Purpose of the CIA

2.1 The purpose of this Cumulative Impact Assessment is to provide clarity and transparency to those applying for, making representations in respect of, and determining, new and variation applications in relation to premises located within the identified area where cumulative impact exists.

### 3. Reasons for continuing to implement a CIA Policy

3.1 Concerns relating to higher levels of crime and disorder and public nuisance continue to be identified within the city centre where there is a large concentration of licensed premises compared to other areas within the Authority area and those concerns continue to be linked to licensed premises.

### 4. Evidence for continuing to implement a CIA Policy

4.1 Originally the Bath and North East Somerset Community Safety and Drugs Partnership (CSDP) collated information which showed “a defined temporal and geographic area” within Bath City Centre “experienced a significantly greater degree of alcohol related crime and disorder than the remainder of the authority area” and that Bath City Centre could be defined as experiencing a significant amount of alcohol related crime. In consideration of this evidence a Cumulative Impact Policy was adopted by Bath & North East Somerset Council and included in its Statement of Licensing Policy.

## Appendix 3: Review of Cumulative Impact Assessment 2019

4.2 This evidence was re-assessed each time the Statement of Licensing Policy was revised and was found sufficient to justify continuing with a Cumulative Impact Policy within the Statement of Licensing Policy.

4.3 With the introduction of Cumulative Impact Assessments the evidence has been reviewed again, and the evidence justifies the continuation of the cumulative impact policy, now to be referred to as BANES Cumulative Impact Assessment.

4.4 The evidential basis for concluding that the policy is still required is attached at Appendix a.

### 5. Description of the geographic area for which the cumulative impact assessment applies:

5.1 Recent evidence supports a reduction in the area in which high levels of crime, disorder and anti-social behaviour were previously reported, therefore a revised map detailing the reduced area is attached at Appendix A and views are sought on this as part of the public consultation.

### 6. Authorisations

6.1 The CIA will relate to all new applications for premises licences and club premises certificates AND any subsequent variations in respect of premises located in the identified area.

6.2 The CIA policy will not apply to Temporary Event Notices.

### 7. Type of Licensable Activity

7.1 Based on the evidence collated between 2014-2019, it is proposed that the cumulative impact assessment will not apply to premises where alcohol is sold for consumption off the premises.

### 8. Type of Premises

8.1 As there are no legal definitions in respect of premises such as “vertical drinking establishments” or “night clubs” or “tap rooms” for example this cumulative impact assessment applies to ALL premises where alcohol is sold for consumption on those premises.

### 9. Effect of this Cumulative Impact Assessment

9.1 The cumulative impact assessment creates a rebuttable presumption that all applications for new premises licences or club premises certificates or variations which relate to “on trade” premises situated within the identified area will be refused if relevant representations are received. In this context, ‘on trade’ means the sale of alcohol for consumption on the premises.

## Appendix 3: Review of Cumulative Impact Assessment 2019

9.2 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.

9.3 The Licensing Authority shall expect the applicant to address the issues surrounding cumulative impact within their operating schedule.

### 10. Representations

10.1 The presumption created by the Cumulative Impact Assessment does not relieve Responsible Authorities or any other persons from submitting a written representation about the likely effect of the grant of the application on the licensing objectives, to the Licensing Authority, within the statutory 28 day period. The Licensing Authority may not lawfully consider giving effect to its cumulative impact policy in the absence of relevant representations.

10.2 If no relevant representations are received, the application will be granted as applied for in accordance with s.18 (2) Licensing Act 2003.

### 11. Merits of each individual application

11.1 This CIA is not absolute.

11.2 The Licensing Authority will give proper consideration to the individual merits of each application, together with the relevant representations made. It is expected that the impact will differ depending on the style and characteristics of each individual premises.

11.3 Where it considers the application promotes the licensing objectives and would be unlikely to add to the cumulative impact already experienced, the Licensing Authority will grant the application.

11.4 Where 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.

### 12. Application for Review

12.1 This Cumulative Impact Assessment will not be used as a ground for calling for the review of an existing premises licence or club premises certificate. A review must relate to an individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.

### 13. Review of this Cumulative Impact Assessment

13.1 Further to this revision, this CIA shall be reviewed every 3 years.

## Appendix 3: Review of Cumulative Impact Assessment 2019

### 14. Consultees

14.1 Prior to publishing this Cumulative Impact Assessment, the Licensing Authority consulted with all those specified within s.5(3) Licensing Act 2003.

### 15. Summary of CIA

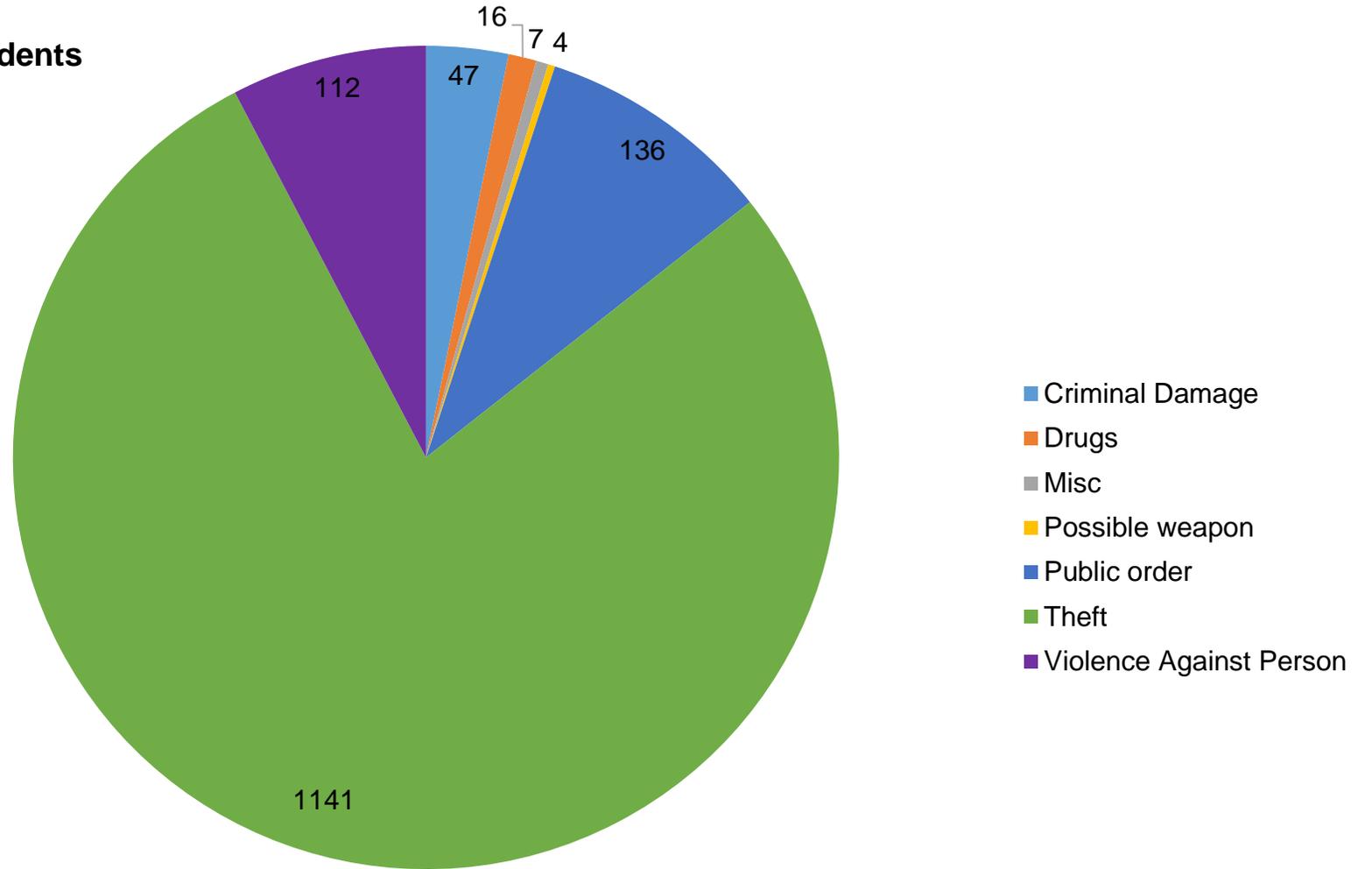
15.1 A summary of this Cumulative Impact Assessment will be published in the B&NES Council's Statement of Licensing Policy.

### 16. Conclusion

16.1 This revised cumulative impact assessment policy will enable the Licensing Authority to discharge its duty to promote the licensing objectives in respect of an area where:

1. Concern relating to public nuisance and crime and disorder continues to be raised;
2. Up to date and robust evidence has been provided to support that public nuisance and crime and disorder is still occurring, and is caused by customers of premises licensed for the sale/supply of alcohol for consumption on those premises within an identified geographical area.

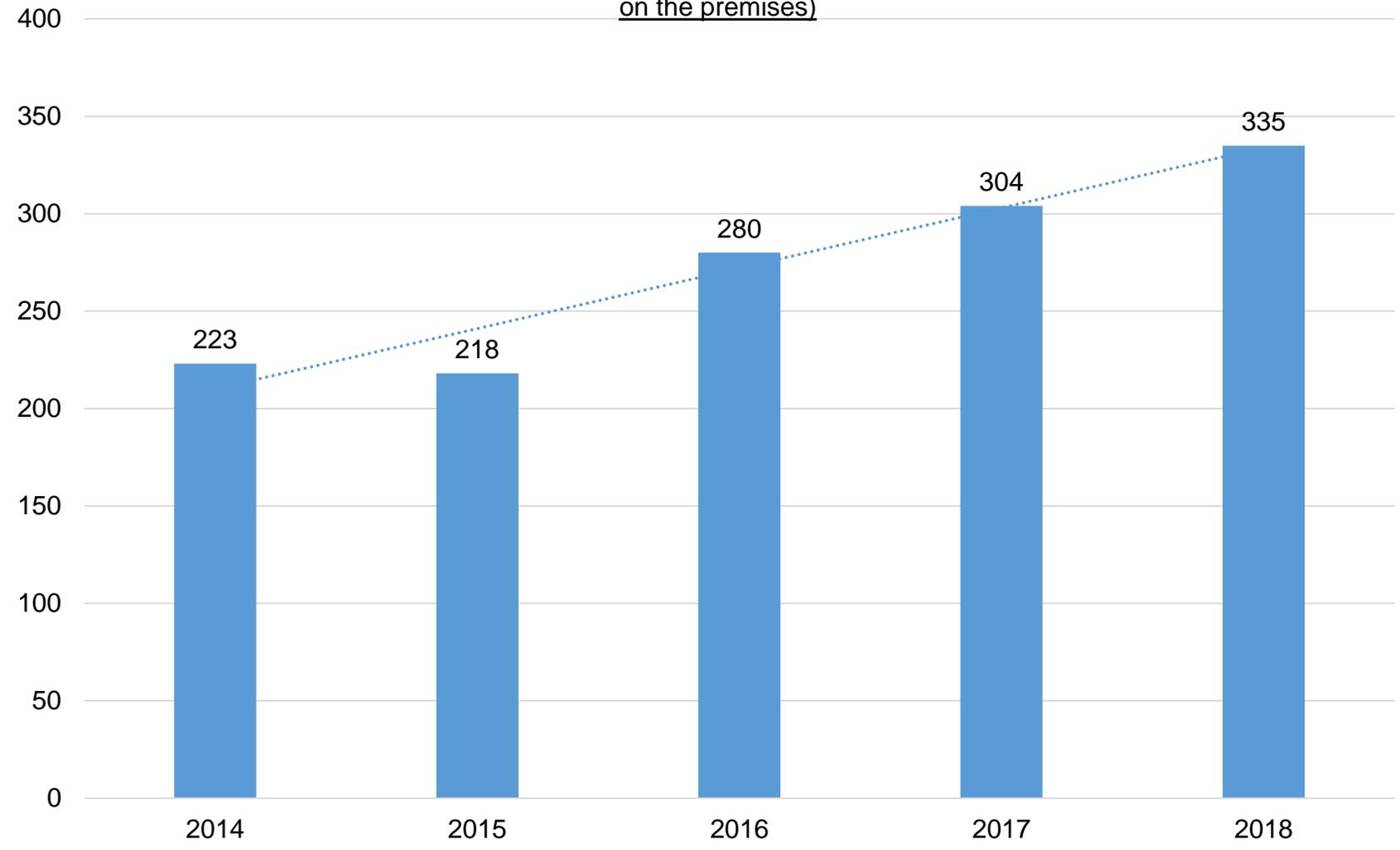
**Bath City Centre  
Off Licence Crime & Disorder Incidents  
2014 - 2019**



(Theft includes all shoplifting not specifically alcohol related offences)

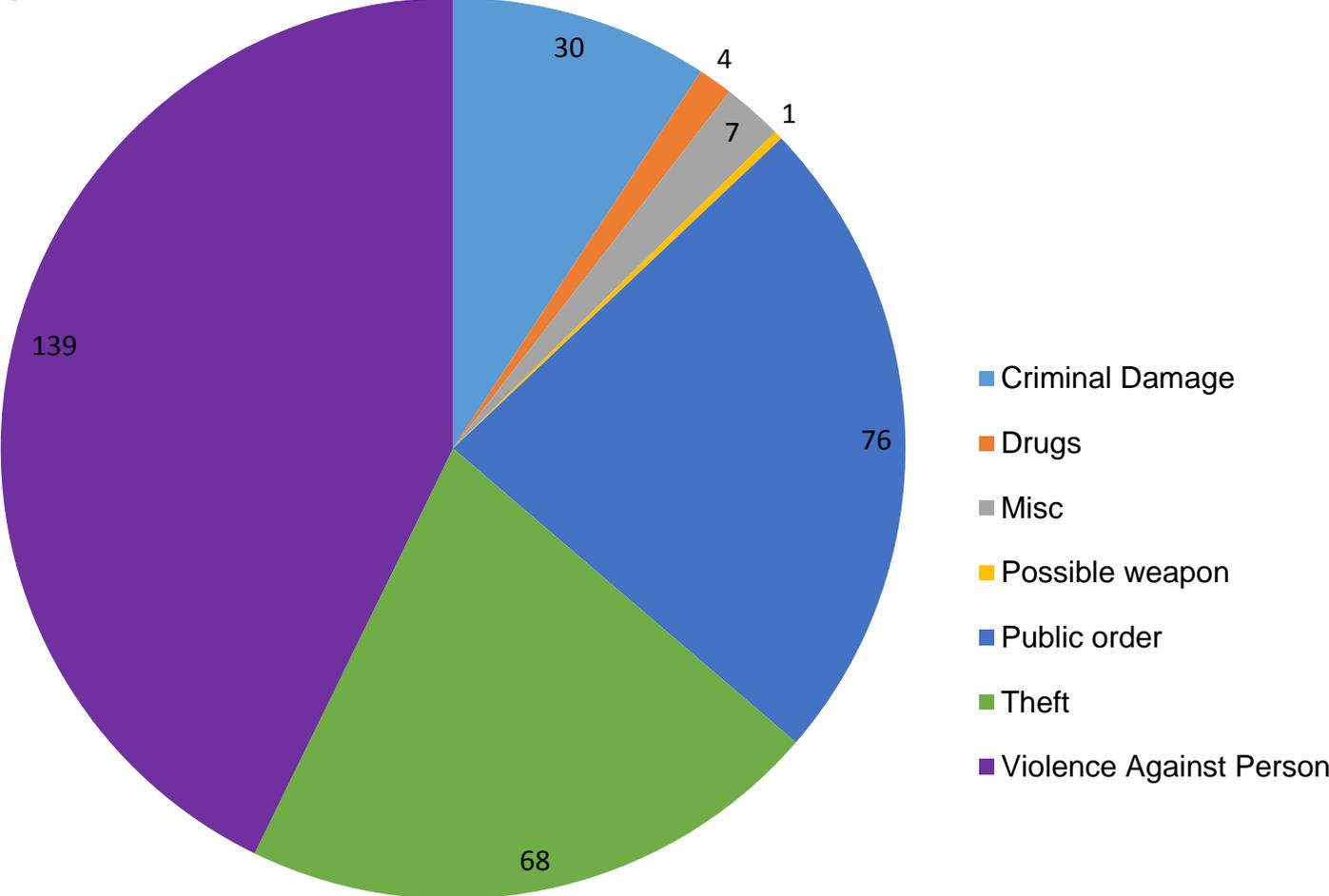
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Number of Crime and Disorder incidents 2014-2018  
(Bath City Centre licensed premises which sell alcohol  
on the premises)

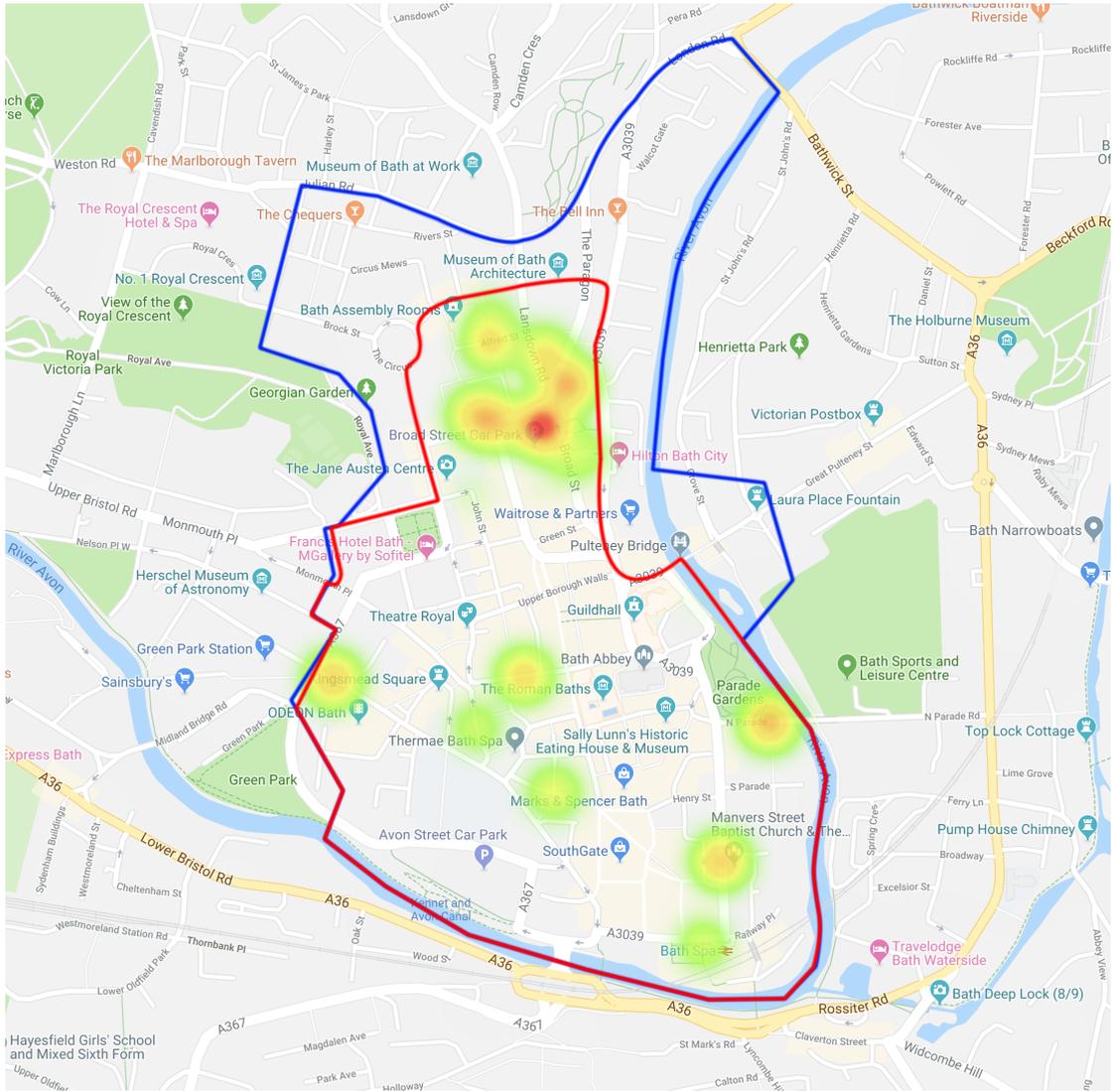


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**Bath City Centre**  
**Number of Late Night Refreshment crime & disorder incidents**  
**2014 - 2019**



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Appendix a-  
Cumulative Impact Area Rationale (Avon and Somerset Police)

**Cumulative Impact Area (CIA)**

**Bath City Centre**

**Police observations and recommendations**

The Police have been asked to provide evidence to support the continuation of the Cumulative Impact Area pertaining to Bath City Centre.

The Cumulative Impact Area (introduced in 2007) is subject to a second 5 yearly review.

The Police fully support the continuation of the Bath City Centre Cumulative Impact Area.

**Rationale:**

The Cumulative Impact Area is a geographical representation of the area subject to the B&NES Cumulative Impact Policy. Guidance for determining a policy states:

**“Where the number, type and density of premises selling alcohol for consumption on the premises are unusually high, 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.**

Based on the above rationale, the Police provide the following information which is appended to this document:

- Data relating to incidents of crime and anti-social behaviour in Bath City Centre post codes (between 2014-19) for licensed premises
- Data relating to incidents of crime and anti-social behaviour in Bath City Centre post codes (between 2014-2019) for late night refreshment and off licences
- A Geographic Heat Map illustrating the incidents of crime and anti-social behaviour for licensed premises selling alcohol in the City Centre, showing the existing Cumulative Impact Area boundary
- A map indicating the current and proposed boundary of the Cumulative Impact Area

**Summary:**

It can be seen from the figures produced that demand for policing related to licensed premises remains high and appears to be increasing. It is known that these figures are heavily influenced by the Night-Time Economy based on the most impactful premises featured.

## Appendix a- Cumulative Impact Area Rationale (Avon and Somerset Police)

The figures related to late night refreshment establishments and off-licences are low by comparison.

The figures and the maps also show that there have been some changes to the demographics of the city centre. For instance, a nightclub in Walcot Street that previously had a significant impact on the Night-Time Economy has closed. Although the premises that has replaced it is licensed for the consumption of alcohol on the premises until the early hours, the nature of this premises is far less impactful and lower risk in terms of crime and disorder.

The Police therefore support the need for the Cumulative Impact Area to remain on the basis of crime and anti-social behaviour incidents relating to licensed premises and suggest an amended boundary as illustrated on the map to take into account developments within the City Centre.

**Avon and Somerset Police Licensing Team May 2019**





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# Cumulative Impact Area

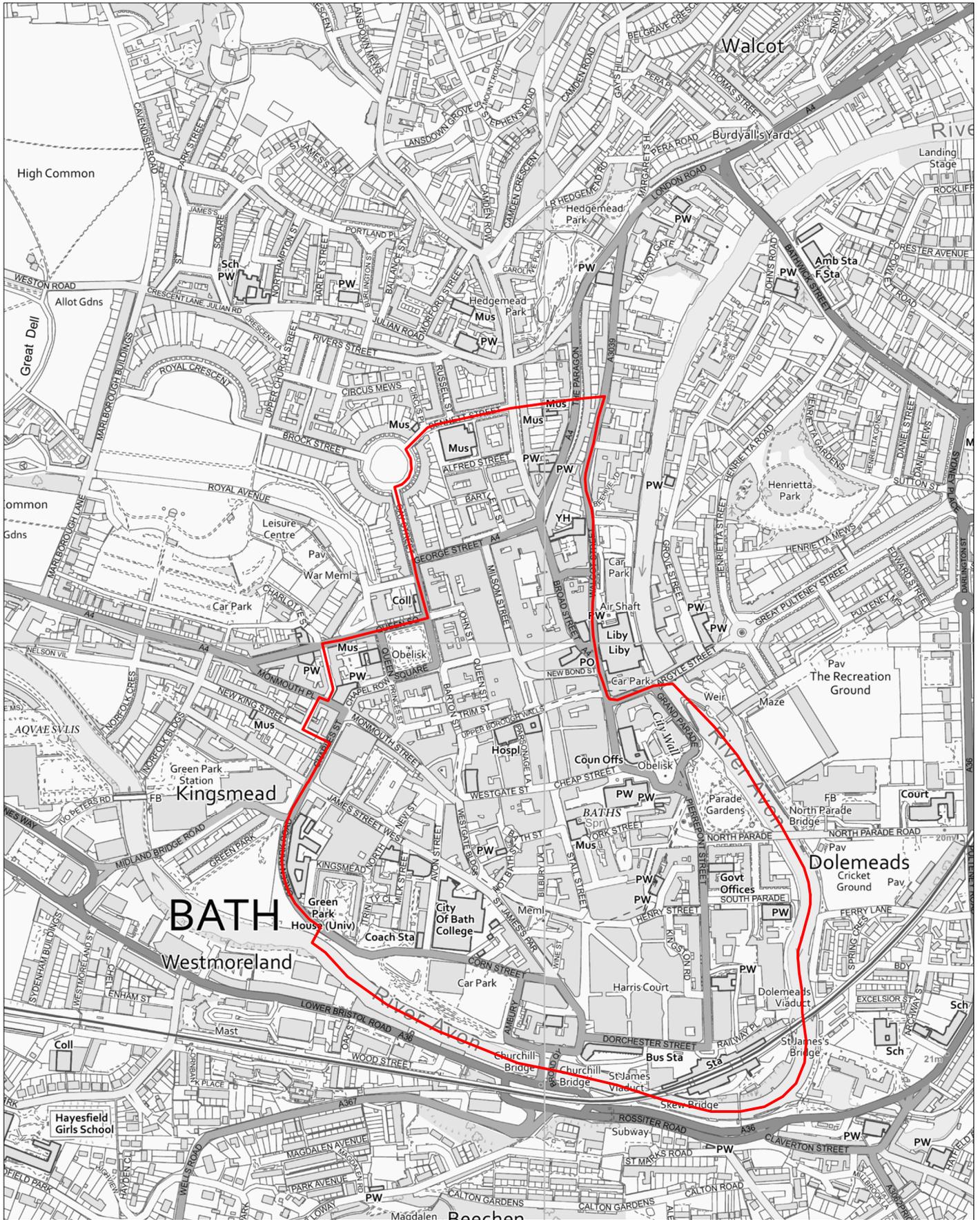
Proposed boundary

Compiled by MRL on 3 June 2019

Scale 1:8000



Bath & North East Somerset Council  
Lewis House  
Manvers Street  
Bath BA1 1JG  
Tel 01225 477000



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