

# INDEX

## Page

### Statement of Licensing Policy

- 1 Introduction
- 2 Purpose
- 3 Licensing objectives
- 4 Types of Licence
- 5 Licensable Activities
- 6 General Principles
- 7 Consultees

### Legislation, Policies and Strategies

- 8 Legislation
- 9 Relationship with Planning Policies
- 10 Relationship with Building Control
- 11 Provisional Statements
- 12 National Strategies
- 13 Local Strategies and Policies
- 14 Integrating Strategies
- 15 Regulated Entertainment
- 16 Cumulative Impact Policy

### Administration of Licensing Functions

- 17 Applications
- 18 Licensing Hours
- 19 Vicinity
- 20 Conditions
- 21 Enforcement
- 22 Drugs Policy
- 23 Operating Schedules
- 24 Premises Licences
- 25 Provisional Statements
- 26 Club Premises Certificates
- 27 Personal Licences
- 28 Designated Premises Supervisors
- 29 Temporary Event Notices

### Operational Matters

- 30 Variation of Licences
- 31 Transfer of Premises Licences
- 32 Interim Authority Notices

**Prevention of Crime and Disorder Objective**

33 Applications

**Public Safety Objective**

34 Inspection of Premises

35 Operational Considerations

**Prevention of Public Nuisance Objective**

36 Local Amenity

**Protection of Children from Harm Objective**

37 Access to Licensed Premises

38 Access to Cinemas

39 Children and Public Entertainment

**Complaints against Licensed Premises**

40 How complaints will be dealt with

**Decision Making**

41 Licensing Committee Terms of Reference

42 Allocation of Decision Making Responsibilities

43 Relevant Representations

44 Other Considerations

45 Reviews

**Table of Delegations of Licensing Functions**

**Map Showing Outline of the Cumulative Impact Policy for Bath City Centre**

**Further Information**

## STATEMENT OF LICENSING POLICY

### 1 Introduction

- 1.1 Bath and 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 and restaurants, 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 Bath and North East Somerset was the first Council in the South West to be awarded a Purple Flag in January 2010. The award was granted by the Association of Town Centre 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.
- 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 over 55 new stores including a mix of retail, eating, entertainment, and residential properties.
- 1.7 The Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' that sets out the policies 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 Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act (the Guidance).

- 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 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.
- This policy will provide the decision makers with parameters under which to make their decisions.
  - This policy will inform applicants of the parameters under which the Licensing Authority will make decisions, and therefore how a licensed premises is likely to be able to operate within Bath and North East Somerset. Each case will, however, be determined on an individual basis.
  - 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.
  - This policy will provide the courts with the basis upon which decisions were reached.
  - Where it is necessary to depart from the Guidance in considering a particular application the Licensing Authority will give reasons.
  - This policy will be regularly reviewed by the Licensing Authority in accordance with the requirements of the Act or as the Authority deems necessary.

## **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:
- 1 The prevention of crime and disorder;**
  - 2 Public safety;**
  - 3 The prevention of public nuisance;**
  - 4 The protection of children from harm.**

- 3.2 Each objective is of equal importance; there are no other licensing objectives so these four objectives are paramount considerations at all times.
- 3.3 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.

#### **4 Types of Licence**

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

Premises Licences;  
Club Premises Certificates;  
Personal Licences;

and when considering notifications made in respect of:

Temporary Event Notices.

#### **5 Licensable Activities**

- 5.1 The term “Licensable Activities” is defined by the Act.

Licensable Activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

#### **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 page 36 of this Policy.

- 6.2 The Licensing Committee is not a court of law and may seem informal in comparison with such proceedings. For example the rules of evidence do not normally apply and evidence is not taken on oath. Nevertheless, in determining licensing matters the Committee will follow judicial principles to ensure that 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 an Interested Party or a Responsible Authority subject to conditions as indicated in paragraph 45 (Reviews).
- 6.5 Applicants for Premises Licences and Club Premises Certificates will be expected to set out how they intend to promote the Licensing objectives and what measures they intend to employ to ensure compliance with them.
- 6.6 In order to avoid duplication with other statutory regimes the Licensing Authority will seek to use the most appropriate method of dealing with a particular issue. Subject to the provisions of paragraph 20 (Conditions) the only conditions which should be imposed on a Premises Licence or Club Premises Certificate are those which are necessary, proportionate and reasonable for the promotion of the licensing objectives.
- 6.7 Accordingly if other controls are available because the law already places certain statutory responsibilities on an employer or operator of premises (such as in relation to Health and Safety) it cannot be necessary to impose the same or similar duties on the Premises Licence holder or club. For example, conditions relating to noise nuisance would not normally be necessary where the provisions of byelaws or of other legislation such as the Environmental Protection Act 1990 protect those living in the vicinity of the premises in question. Where adequate protection is not available conditions subject to the provisions of paragraph 20 may be considered appropriate.
- 6.8 Applicants may suggest and are encouraged to suggest appropriate conditions in their operating schedules.
- 6.9 Where the Act provides for mandatory conditions to be included in a Premises Licence the Licensing Authority has a duty to include those conditions on the licence.
- 6.10 Subject to paragraph 43 (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.

## **7 Consultees**

- 7.1 Before determining this policy the Licensing Authority has consulted with various bodies including:
- All Responsible Authorities;
  - Representatives of local holders of Premises Licences, Club Premises Certificates.
  - Representatives of businesses and residents of the area.
  - 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:
- Section 17 of the Crime and Disorder Act 1988;
  - Human Rights Act 1998.
  - Equalities Act 2010.
- 8.2 The impact of this policy will be monitored through the Council's equality policies.

### 9 Relationship with Planning Policies

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

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

- 11.1 Further guidance is given below and in paragraph 25 regarding Provisional Statements generally.

- 11.2 In relation to planning and building control it should be noted that any decision of the Licensing Authority on an application for a provisional statement would not relieve an applicant of the need to obtain any necessary planning permission, listed building consent or building control approval before any development takes place.

## **12 National Strategies**

- 12.1 The Licensing Authority will also seek to discharge its responsibilities identified by other Government strategies, so far as they impact on the objectives of the Licensing function. These will include:

- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
- Safer Clubbing;
- Professional Guidance as to best practice on test purchasing;
- Alcohol Harm Reduction Strategy.

## **13 Local Strategies and Policies**

- 13.1 Where appropriate, the Committee will take into account local strategies and policies. These will include:

- Sustainable Community Strategy
- Community Safety Plan

## **14 Integrating Strategies**

- 14.1 The Licensing Authority has endeavoured to secure proper integration with local strategies such as local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies.

- 14.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. These may not directly relate to the four licensing objectives, but may impact upon them. However, on any application under the Licensing Act the four licensing objectives will remain paramount in the application of this policy.

- 14.3 Where appropriate, the Licensing Authority will have regard to:

- local crime prevention strategies;
- needs of the local tourist economy;
- cultural strategy for the area;
- employment situation in the area and the need for new investment and employment where appropriate;
- planning considerations that might affect licensed premises;
- needs of the local community



- the duty on Public Authorities to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.
- the Economic Strategy
- the policy on cumulative impact.

## **15 Regulated Entertainment**

- 15.1 In its role of implementing Council cultural strategies, the Licensing Authority recognises the need to encourage regulated entertainment such as live music, dance and theatre for the wider cultural benefit of the community.
- 15.2 When considering applications for such events and the imposition of conditions on licences or certificates, the Licensing Authority will carefully balance cultural needs with the necessity of achieving the promotion of the licensing objectives.
- 15.3 The Licensing Authority monitors the impact of licensing on the provision or lack of provision of regulated entertainment, and particularly live music and dancing.
- 15.4 The Licensing Authority will ensure that only necessary, proportionate and reasonable licensing conditions are imposed on such events.
- 15.5 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 for example; village greens, markets, promenades, community halls, parks, Council owned art centres and similar public spaces. In this instance performers and entertainers would require the permission of the Council as the Premises Licence holder rather than a premises licence.

## **16 Cumulative Impact Policy**

- 16.1 Cumulative impact is not mentioned specifically in the Act but the Guidance to the Act states that cumulative impact is the potential impact, on the promotion of the licensing objectives, of a significant number of licensed premises concentrated in one area. This collective effect is known as “cumulative impact”. The Guidance further states that the cumulative impact of licensed premises, on the promotion of the licensing objectives, is a proper matter for a licensing authority to consider in developing its statement of licensing policy.
- 16.2 Where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder can arise in the vicinity of those premises. Where a number of licensed premises are grouped together, and particularly where they may be situated near residential areas, the problem can be compounded. 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.

### Steps taken in considering a cumulative impact policy

16.3 The steps that this Licensing Authority has taken in considering whether to adopt a cumulative impact policy within the statement of licensing policy are summarised below:-

- Identification of the concern about public nuisance and crime and disorder
- Consideration as to whether there is good evidence that public nuisance and crime and disorder is occurring, and is caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
- Identification of the boundaries of the area where problems are occurring
- Consultation with those specified in section 5(3) of the 2003 Act and, subject to the outcome of the consultation,
- Inclusion and publication of the details of a cumulative impact policy to be included in the Statement of Licensing Policy

### Evidence of cumulative impact

16.4 The Bath and North East Somerset Community Safety and Drugs Partnership (CSDP) collated information which demonstrated that, in Bath City Centre, “a defined temporal and geographic area experiences a significantly greater degree of alcohol related crime and disorder than the remainder of the authority area” and that Bath City Centre can be defined as experiencing a significant amount of alcohol related crime.

16.5 At the meeting on the 18<sup>th</sup> January 2007 Council considered the report from the CSDP. After considering the available evidence Council resolved to consult on the proposed area outlined in Appendix 1 of the CSDP’s report. Having consulted with those individuals and organisations listed in section 5(3) of the 2003 Act, the Council resolved, on 13<sup>th</sup> September 2007, that the evidence contained within the report was sufficient to justify the preparation of a cumulative impact policy for inclusion in the Council’s Statement of Licensing Policy. At a meeting on the 20<sup>th</sup> April 2009 the Licensing Committee considered a report on the review of the cumulative impact policy and resolved to continue with the policy. A copy of the reports, together with the Minutes of the meetings, can be seen at any of the Council’s libraries or on the Council’s web site at the following address:-

[www.bathnes.gov.uk](http://www.bathnes.gov.uk)

16.6 The area identified for the cumulative impact policy is outlined on the map in Appendix A of this document (the Cumulative Impact Policy Area).

## The effect of a cumulative impact policy

- 16.7 The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for new premises licences, club premises certificates or variations will be refused if relevant representations are received. If the application is not to be refused then the applicant will have to demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.
- 16.8 The licensing authority will expect the applicant to address the issues surrounding cumulative impact in their operating schedule in order to rebut such a presumption. See paragraph 16.17 below for suggested conditions.
- 16.9 However, this presumption does not relieve Responsible Authorities or Interested Parties of the need to make a relevant representation before the licensing authority may lawfully consider giving effect to its cumulative impact policy in a particular case.
- 16.10 After receiving representations in relation to a new application or a variation of a licence or certificate, the licensing authority will consider whether it would be justified in granting a licence or variation in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not.
- 16.11 The licensing authority will consider the individual merits of any application, together with the relevant representations made and, where it considers that, to grant the application would be unlikely to add significantly to the cumulative impact having regard to the licensing objectives, the authority will grant the application.
- 16.12 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.
- 16.13 If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 16.14 Where an application for a review is received by the licensing authority, the cumulative impact policy will not be used as a ground for revoking an existing licence or certificate. The cumulative impact on the promotion of the licensing objectives of a concentration of licensed premises should only give rise to relevant representations where an application for the grant or material variation of a premises licence or certificate is being considered. A review must relate to individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.

- 16.15 The licensing authority will regularly monitor the impact of this cumulative impact policy to assess whether it is no longer needed or needs to be modified or expanded.

### **Suggested additions to operating schedules**

- 16.16 If an application for a licence is made for a premises within the defined area of the cumulative impact policy the licensing authority will expect the applicant to demonstrate, in their operating schedule, the steps that they will take to prevent problems relating to nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder.

- 16.17 A range of measures that the licensing authority would wish to be included on a premises licence application within the cumulative impact area would depend on the nature and type of premises within the application and would need to be individual to that premises, examples are:-

- CCTV at the premises to be properly maintained.
- Security Industry Authority (SIA) door staff.
- Toughened or plastic glass, no bottles.
- Free calls to taxi firms for departing customers at the end of the night.
- Outside areas to be cleared at a reasonable time (time to be stated)
- Signs to be displayed at each exit to encourage patrons to minimise noise and not to congregate in the street at close
- To contribute to the street marshal scheme.
- To be a member of the local Pub watch.
- No open containers of alcohol to leave the premises.
- To supervise entry and exit of the customers from the premises at busy times.
- Facilities for people to dispose of cigarette ends and provisions for reducing noise from people smoking outside the premises.
- A limit on the number of customers permitted on the premises at one time.
- A requirement that the public spaces in the premises should be predominately seated.

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

- 16.18 The Bath Night Watch scheme is a culmination of Bath and North East Somerset Council, Bath Pub Watch and the Police working together to promote the four licensing objectives as one co-ordinated stakeholder group.

The Licensing Authority will expect all licensed premises within the Cumulative Impact Area to take a socially responsible approach by participating in schemes like 'Bath Night Watch', or similar, which improve issues of alcohol-associated anti-social behaviour in and around city centre licensed premises at night.

The Licensing Authority also encourages all premises, outside the cumulative impact area, to take a similar approach, which would improve the issue of alcohol-associated anti-social behaviour outside the city centre at night.

## Other mechanisms for controlling cumulative impact

- 16.19 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:-
- Planning controls.
  - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
  - The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
  - The Council has a Designated Public Places Order for Bath as a place where alcohol may not be consumed publicly except where permission has been granted i.e. tables and chairs permit.
  - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices for relevant offences.
  - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
  - The confiscation of alcohol from adults and children in designated areas.
  - 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.
  - The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

## 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 should include information which is necessary to enable any responsible authority or interested party 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, or where the application is in Bath city centre Pubwatch or other such groups, as may be appropriate.

- 17.5 The Licensing Authority encourages applicants to liaise with the relevant authorities prior to submitting their applications, e.g. police or fire authority, when compiling their operating schedules.

## **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 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 Vicinity**

- 19.1 The term "vicinity" is used in this document, the Act and the Guidance on a number of occasions, but its meaning is not defined in the Act. Whether incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend upon the particular circumstances of the case. In cases of dispute the question will ultimately be decided by the Courts.

- 19.2 In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living or working in the vicinity.

- 19.3 It should be noted that Licensing functions under the Act are only one means of promoting the delivery of the licensing objectives.

- 19.4 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless it is a key aspect of such control and will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.
- 19.5 The Licensing Authority will endeavour to work in partnership with others to promote common objectives.

## **20 Conditions**

- 20.1 The Licensing Authority **may not** impose conditions on or refuse to grant/vary a Premises Licence or Club Premises Certificate **unless** it has received a relevant representation in respect of the application. There will be no standard conditions.
- 20.2 If no relevant representations are received, the application must be granted on the terms sought, i.e. on terms that are consistent with the operating schedule submitted, and no additional conditions can be imposed.
- 20.3 Conditions may only be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives. Conditions may not be imposed on licences and certificates for other purposes.
- 20.4 One of the key concepts underscoring the Act is for conditions to be attached to licences and certificates which are tailored to the individual style and characteristics of the premises and events concerned.
- 20.5 Conditions will be applied to licences that are proportionate and appropriate to the business, organisation, or individual premises concerned. The Licensing Authority will principally draw upon the pool of model conditions issued by the Department of Culture, Media and Sport, and attach conditions relative to the given circumstances of each individual case and which are necessary in order to promote one or more of the licensing objectives. The model conditions referred to can be found in the Annexes to the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act.

## **21 Enforcement**

- 21.1 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.
- 21.2 The enforcement policy (available on request) proposes that a graduated response is taken where offences against legislation are found, or where licence conditions have been contravened. An isolated administrative offence such as

failing to maintain records may be dealt with purely by way of a written warning. More serious offences which have either been committed over a period of time, or which jeopardise public safety, such as keeping exit routes clear or failing to maintain fire extinguishers properly, may result in the issue of a Formal Caution, or a referral for prosecution.

- 21.3 The Licensing Authority will seek to work actively with the Police in enforcing licensing legislation. The Licensing Authority expects the police to share information about licence holders and licensed premises, under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Licensing Authority when any enforcement action may be required.
- 21.4 The Licensing Authority will employ Licensing Enforcement Officers to investigate allegations of unlicensed activities and ensure that licence conditions imposed by the Licensing Authority are met.

## **22 Drugs Policy**

- 22.1 The Licensing Authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises.
- 22.2 The Licensing Authority recognises the importance of guidance such as that contained in the document entitled “Safer Clubbing”. “Safer Clubbing” concerns drugs and nightclubs. The Home Office, in conjunction with the Department of Health and the Department for Culture, Media and Sport, produced the Safer Clubbing Guide to provide comprehensive advice for nightclub owners, dance event promoters and existing local authority licensing departments on how to ensure the health and safety of anyone attending dance events in England. The Guide can be viewed in full on [www.drugs.gov.uk](http://www.drugs.gov.uk).
- 22.3 Although “Safer Clubbing” has been directly aimed at late night club venues which have been associated with drug misuse, the safety of people attending events at all licensed premises, which can now operate the type of events at which people are more likely to take drugs, must be ensured.
- 22.4 The Licensing Authority recommends this document to applicants wishing to provide the type of event at which people are more likely to take drugs. It is hoped that the document will be modified to refer to the provisions of the Licensing Act 2003.
- 22.5 Information regarding Safer Clubbing has been reproduced at Annex E of the Guidance issued under Section 182 of the Act.
- 22.6 Where relevant applicants for Premises Licences or Club Premises Certificates should be able to demonstrate that they have had regard to “Safer Clubbing” in preparing operating schedules.



## 23 Operating Schedules

- 23.1 Applicants for Premises Licences, Provisional Statements and Club Premises Certificates should be aware of the guidance issued by the Licensing Authority in relation to Operating Schedules when submitting their applications.
- 23.2 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training, and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority **recommends** that these elements should be specifically considered and addressed within an applicant's Operating Schedule.
- 23.3 The selection of control measures should be based upon a risk assessment of the premises, plus the events, activities and customers expected to attend (e.g. their age, number etc.). Whilst the Licensing Authority cannot require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the management of the premises.
- 23.4 The operating schedule should be prepared by or on behalf of the applicant, in relation to the premises for which a licence is being sought, taking into account the individual style and characteristics of the premises/events.
- 23.5 **The Operating Schedule must 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, the name and address of the individual to be specified as the Designated Premises Supervisor;
  - f. where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises, or both;
  - g. the steps which the applicant proposes to take to promote the licensing objectives such as the provision of street marshals etc.
  - h. any other prescribed matters.

- 23.6 The Guidance produced by the Secretary of State under Section 182 of the Act recommends that applicants should be aware of the expectations of the Licensing Authority regarding the steps that are necessary for the promotion of the licensing objectives. The following information is provided by way of guidance only in order to assist applicants in the preparation of their Operating Schedules. Such steps should be both realistic and within the control of the applicant/management of the premises.
- 23.7 The Licensing Authority is committed to the **prevention of crime and disorder**.
- 23.8 To this end, applicants will be expected to demonstrate in their operating schedules that suitable and sufficient measures have been identified and will be implemented and maintained to ensure the prevention/reduction of crime and disorder relevant to the individual style and characteristics of their premises and events.
- 23.9 When addressing the issue of crime and disorder, an applicant should demonstrate that the factors that impact on crime and disorder have been considered, for example:
- adoption of best practice guidance (e.g. 'Safer Clubbing', the 'National Harm Reduction Strategy Toolkit', 'Security in Design', and 'Drugs and Pubs');
  - acceptance of proof of age cards e.g. PASS or locally approved schemes;
  - provision of effective CCTV in and around the premises and the availability to the Licensing Authority/Police for the purposes of enforcement of any recordings made;
  - employment of Security Industry Authority (SIA) staff;
  - provision of toughened or plastic drinking vessels;
  - provision of secure deposit boxes for confiscated items such as drugs;
  - provision/maintenance of litter bins;
  - the use of banning procedures where appropriate.
- 23.10 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.
- 23.11 To this end, applicants will be expected to demonstrate in their Operating Schedules that suitable and sufficient measures have been identified and will be implemented and maintained to ensure **public safety** relevant to the individual style and characteristics of their premises and events.
- 23.12 When addressing the issue of public safety, an applicant should demonstrate that the factors that impact on the standards of public safety have been considered.

These may include:

- the occupancy capacity of the premises
- the age, design and layout of the premises, including means of escape
- the nature of the licensable activities that are provided
- customer profile.

- 23.13 The following examples of control measures are given to assist applicants who may need to take account of them in their Operating Schedules:
- whether any risk assessment, management procedures and certificates relating to fire safety, public health and safety, and any other technical risk assessments are required/have been made available;
  - whether the premises have/require a licence specifying the maximum number of people that can attend it or be present;
  - whether there are procedures proposed to record and limit the number of people on the premises;
  - whether patrons can travel safely to and from the premises;
  - whether music and dance venues, and performance venues will use equipment or effects which may impact on public safety (e.g. strobe lights, smoke machines etc);
  - whether in applying for music and dance venues due account has been given to the measures outlined in 'Safer Clubbing'.
- 23.14 Applicants will be expected to demonstrate in their Operating Schedules that suitable and sufficient measures have been identified and will be implemented and maintained to prevent **public nuisance**, relevant to the individual style and characteristics of their premises and events.
- 23.15 When addressing the issue of prevention of public nuisance, the applicant should be able to demonstrate that those factors which impact on the likelihood of public nuisance have been considered. These may include:
- Whether Operating Schedules contain adequate measures to prevent noise, smells and vibration generated from within the premises or outside it causing disturbance to people in the surrounding area.
  - Whether applicants include measures in the Operating Schedule that make adequate provision to:
    - a) restrict the generation of noise and smell;
    - b) limit the escape of noise and smell;
    - c) minimise and control noise from customers arriving at the premises, outside it and departing from it.
  - In relation to eating and drinking outside the premises, consideration is given to:
    - a) whether the premises are under or near to residential accommodation;
    - b) whether the sales consist of open containers or drinking vessels;
    - c) whether there are measures in place to collect drinking vessels;
    - d) the areas proposed for the consumption of food and drink;

- e) whether there is a need for door supervisors.
- f) whether it is proposed to use toughened glass or plastic drinking vessels.
- g) the provision of suitable ashtrays and/or bins for people smoking outside premises.

23.16 The Operating Schedule should also consider other public nuisance issues including litter, street fouling, light pollution, queuing and the use of CCTV, door supervisors and/or street marshals.

23.17 Applicants will be expected to demonstrate in their Operating Schedules that suitable and sufficient measures have been identified and will be implemented and maintained to **protect children from harm**, relevant to the individual style and characteristics of their premises and events. These may include:-

- Processes to ensure that alcohol is not sold or provided to children or young people.
- Not allowing adult entertainment when children or young people are present.

## 24 Premises Licences

24.1 A Premises Licence will be required for the use of any premises, part of premises, or place for the following licensable activities:

- a) the sale of alcohol;
- b) the provision of regulated entertainment;
- c) the provision of late night refreshment

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

- a) Police
- b) Fire Brigade
- c) Trading Standards
- d) Local Safeguarding Children's Board
- e) Environmental Health Department
- f) Local Planning Authority

and where relevant

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

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

## **25 Provisional Statements**

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

## **26 Club Premises Certificates**

- 26.1 Club Premises Certificates will be issued to qualifying Clubs as defined in the Act, which carry out the following recognized 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.
- 26.2 Besides making an application to the Licensing Authority, the applicant must also send copies of the application to all the responsible authorities, namely:
- a) Police
  - b) Fire Brigade
  - c) Trading Standards
  - d) Local Safeguarding Children's Board
  - e) Environmental Health Department
  - f) Local Planning Authority

and where relevant

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

- 26.3 In the case of online applications the requirement to send copies to the responsible authorities will pass to the Licensing Authority.
- 26.4 A Club operating schedule should also be submitted with the application and also, a copy of the club rules must be included. See also paragraph 23 above relating to Operating Schedules.

## **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.
- 27.2 **The Authority will reject any application where points a, b or c 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 Officer 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 Because of its wider impact on the community the sale of alcohol carries with it greater responsibility than that associated with the provision of entertainment and late night refreshment. The main purpose of having a Designated Premises Supervisor is to ensure that there is a specified individual that can be readily identified at the premises. The Designated Premises Supervisor 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.

- 28.2 The Designated Premises Supervisor can authorise another personal licence holder in his/her place and that this authority needs to be put in writing for there to be 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 transfer of a designated premises supervisor on the grounds that such transfer may undermine the Crime Prevention 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 are subject to the following limitations:
- a. **duration** – they are limited to events lasting up to 96 hours;
  - b. **scale** – they cannot involve the presence of more than 499 people at any one time;
  - c. **use of the same premises** – the same premises cannot be used more than 12 times in a period of 12 months, or more than 15 days a calendar year (January – December);
  - d. **the number of notices given** – a Personal Licence holder is limited to 50 notices in one year and an ordinary person to five notices in a similar period.
- 29.2 In any other circumstances, a temporary event at which licensable activities are to take place would require a Premises Licence if the premises or place where the event is to take place is unlicensed.
- 29.3 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 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 in the various circumstances outlined above are exceeded.
- 29.4 The Act requires an organiser of a temporary event to give the Licensing Authority a minimum of 10 working days' notice. This is the absolute legal minimum period of notification and in reality would not allow sufficient time for consultations with the Police.

- 29.5 Ten working days' notice means ten 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, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.
- 29.6 The Licensing Authority therefore recommends a minimum notice period of one calendar month before the date of the event taking place.
- 29.7 The Licensing Authority will not attach any terms or conditions to such events other than those set down in legislation. The Council will however, provide on request advice on health and safety matters, noise nuisance and the building of temporary structures.

## OPERATIONAL MATTERS

### 30 Variation of Licences

- 30.1 Applications to vary a Premises Licence will be dealt with in a similar manner to applications for a new Premises Licence. When the Licensing Authority receives an application for a variation of a Premises Licence, 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.
- 30.2 Where an application has been lawfully made and provided that no relevant representation has been made by any responsible authority or interested party, 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.
- 30.3 The Licensing Authority must consider whether any representations received are relevant. 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.
- 30.4 If the Licensing Authority considers that the representations are not relevant then a hearing will not be required and the application will be granted. The aggrieved Interested Party may challenge the Licensing Authority's decision by way of judicial review.
- 30.5 The exception to the above procedure concerns applications for minor variations. Where applications for variations which generally amount 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 addition of volunteered conditions
- d) the additional of certain licensable activities

that will not impact adversely on the licensing objectives, they are subject to a simplified 'minor variations' process. Interested Parties may still make representations and the Licensing Authority is entitled to seek the views of any of the responsible authorities when determining such applications. There is no right to a hearing and officers have delegated powers to determine applications under this process.

### **31 Transfer of Premises Licences**

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

### **32 Interim Authority Notices**

- 32.1 Generally a licence will remain in force for as long as the licence holder continues to operate the business, unless it is revoked, or it is specified that it has effect for a limited period and that period expires. However, if the holder of a Premises Licence dies, becomes mentally incapable or becomes insolvent, then the licence will lapse.
- 32.2 If, within a 7 day period 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, the licence will be reinstated for a two-month period.
- 32.3 At the end of the two months it will lapse unless an application for a transfer of the licence is made.
- 32.4 A person is connected to the former holder of a Premises Licence if, and only if:

- a. the person is the personal representative in the event of the holder's death;
  - b. in respect of someone who has become mentally incapable, the person is acting under section 6 of the Enduring Powers of Attorney Act 1985; or,
  - c. in the event of insolvency, the person is acting as an Insolvency Practitioner.
- 32.5 Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of crime objective, the Licensing Authority will arrange a hearing to consider the Notice.

## **PREVENTION OF CRIME AND DISORDER OBJECTIVE**

### **33 Applications**

- 33.1 Under Section 17 of the Crime and Disorder Act 1998, the Council/Licensing Authority 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 aims to reduce crime, disorder, nuisance and the fear of crime, making Bath and North East Somerset a safer place to live, work and visit.
- 33.2 The Council has introduced measures to assist in this including the provision of community wardens 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 local radio link, Pubwatch, the street marshal scheme and other initiatives such as Bath Night Watch.
- 33.3 The Licensing Authority will consider whether the grant of an application will result in an increase in crime and disorder.
- 33.4 Applicants are encouraged to consider crime prevention procedures in their premises before making a formal application. Applicants are encouraged to work in partnership with other licence holders in order to reduce crime and disorder in their area.
- 33.5 The Licensing Authority will continue to play an active part in the development of Pubwatch and other such schemes.
- 33.6 The Licensing Authority recognises that no matter how well managed the premises are, crime and disorder can occur, particularly outside the premises. Therefore in considering whether the crime and disorder objective is met, the Licensing Authority will normally take into account the criteria set out below.

33.7 In considering licence applications, the following will be taken into account:

- 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;
- whether the applicant has included in the Operating Schedule appropriate management measures to prevent/reduce crime and disorder;
- the training given to staff in crime prevention measures appropriate to those premises;
- 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;
- the likely exit times from the premises and the demands upon and the capacity of public transport at those times;
- any other such measures as may be appropriate, such as participation in Pubwatch or other such schemes, 'music wind-down policies', restrictions on 'happy hours' and the availability of seating to discourage vertical drinking;
- the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- the likelihood of any violence, public order or policing problems if the licence is granted;
- the applicant's willingness to work in partnership with neighbouring licence holders in order to reduce crime and disorder.
- the policy on cumulative impact.

33.8 The Licensing Authority would also recommend that all Designated Premises Supervisors undergo additional training and have experience commensurate with the nature and style of entertainment provided and capacity of the premises.

## **PUBLIC SAFETY OBJECTIVE**

### **34 Inspection of Premises**

- 34.1 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.
- 34.2 This protocol also provides for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run.
- 34.3 Inspections are not undertaken routinely but only when they are judged necessary. This ensures that resources are more effectively concentrated on problem premises. The Act enables the Licensing Authority through its officers to exercise discretion in relation to inspections and does not require annual inspections to take place. The Licensing Authority, therefore, does not intend to carry out annual inspections unless the assessed risks make such inspections necessary.
- 34.4 From time to time premises are inspected by Council Officers, the Police and/or the Fire Service for purposes of ascertaining compliance with the Act or associated Legislation or Regulations.
- 34.5 During the application period the Responsible Authorities might decide to carry out their own inspections.

### **35 Operational Considerations**

- 35.1 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.
- 35.2 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.
- 35.3 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.

## PREVENTION OF PUBLIC NUISANCE OBJECTIVE

### 36 Local Amenity

- 36.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.
- 36.2 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.
- 36.3 In considering an application for a Premises Licence/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.
- 36.4 The Licensing Authority will consider in particular:
- 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;
  - the steps to be taken or proposed to be taken by the applicant to prevent litter and smell nuisance from the premises;
  - the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises;
  - 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;
  - whether there is sufficient provision of public transport (including taxis and private hire vehicles) for patrons;
  - 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;
  - the requirement of any interested party for a quieter Sunday evening and night;
  - the use of gardens and other open-air areas;

- the position or proposed position of external lighting, including security lighting that is installed inappropriately;
  - whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity;
  - The steps taken or proposed by the applicant with particular regard to the recycling of glasses, bottles and cans from their premises.
- 36.5 In certain areas the increased concentration of entertainment uses and longer hours may affect local residents. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.
- 36.6 The role of the Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of the residents. The Licensing Authority will need to satisfy itself that adequate measures are in place to prevent public nuisance.

## **PROTECTION OF CHILDREN FROM HARM OBJECTIVE**

### **37 Access to Licensed Premises**

- 37.1 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.
- 37.2 It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 37.3 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.
- 37.4 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.
- 37.5 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.
- 37.6 The Licensing Authority will judge the merits of each application before deciding whether to impose conditions limiting the access of children to individual premises.

- 37.7 The following are examples of premises that will raise concern:
- where entertainment or services of an adult or sexual nature are commonly provided;
  - 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;
  - where there is a known association with drug taking or dealing;
  - 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); and
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 37.8 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:
- limitations on the hours when children may be present;
  - the exclusion of children under certain ages when particular activities are taking place;
  - limitations on the parts of premises to which children might be given access;
  - requirements for an accompanying adult;
  - full exclusion of people under 18 from the premises or parts of the premises when any licensable activities are taking place.
- 37.9 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.
- 37.10 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.
- 37.11 The Licensing Authority recommends that where appropriate, applicants familiarise themselves with the Drinkwise 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.

## **38 Access to Cinemas**

- 38.1 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.
- 38.2 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.
- 38.3 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 itself.

## **39 Children and Public Entertainment**

- 39.1 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.
- 39.2 The Licensing Authority will expect the Operating Schedule to satisfactorily address safety issues including the supervision of children.
- 39.3 The Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Pool of Model Conditions relating to the Protection of Children from Harm which can be found in Annex D to the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act.

## **COMPLAINTS AGAINST LICENSED PREMISES**

### **40 How complaints will be dealt with**

- 40.1 The Licensing Authority will investigate complaints against licensed premises with regard to matters relating to the four licensing objectives. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.
- 40.2 Where an interested party (such as a local resident or residents' association) has made:
- valid representations about licensed premises, or
  - a valid application for a licence to be reviewed



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

- 40.3 Nothing in this Policy shall restrict the right of an interested party or responsible authority to call for a review of a licence or make relevant representations in accordance with the Act.

## **DECISION MAKING**

### **41 Licensing Committee Terms of Reference**

- 41.1 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.

### **42 Allocation of Decision making Responsibilities**

- 42.1 These responsibilities will be set out in the Council's Constitution. The table on page 36 indicates how the delegation of functions has been allocated.

### **43 Relevant Representations**

- 43.1 'Relevant representations' are the following;
- a) representations about the effect of the Premises Licence/Club Premises Certificate on the promotion of the licensing objectives;
  - b) representations made by an interested party or a responsible authority, which have not been withdrawn, and, in the case of representations made by an interested party, are not, in the opinion of the officer charged with this role, frivolous, repetitive or vexatious.
- 43.2 'Interested Party' means any of the following:
- a) a person living in the vicinity of the premises;
  - b) a body representing persons who live in that vicinity;
  - c) a person involved in a business in that vicinity; or
  - d) a body representing persons involved in such a business.
  - e) an elected Member in any Ward in the Council's area

43.3 'Responsible Authority' means any of the following:

- a) Police;
- b) Fire Brigade;
- c) Trading Standards;
- d) Local Safeguarding Children's Board;
- e) Environmental Health Department;
- f) Local Planning Authority;
- g) Health and Safety Executive;
- h) Maritime Agency;
- i) Any other authority as may be prescribed by Regulations.

#### **44 Other Considerations**

44.1 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.

#### **45 Reviews**

45.1 The process for reviewing Premises Licenses/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 Licenses. 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.

45.2 The Licensing Authority cannot itself initiate a review of the licence, but at any stage following the grant of a Premises Licence/Club Premises Certificate a responsible authority or an interested party 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.

45.3 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.

45.4 The application must relate to particular premises for which a Premises Licence/Club Premises Certificate is in existence and must be relevant to one or more of the licensing objectives.

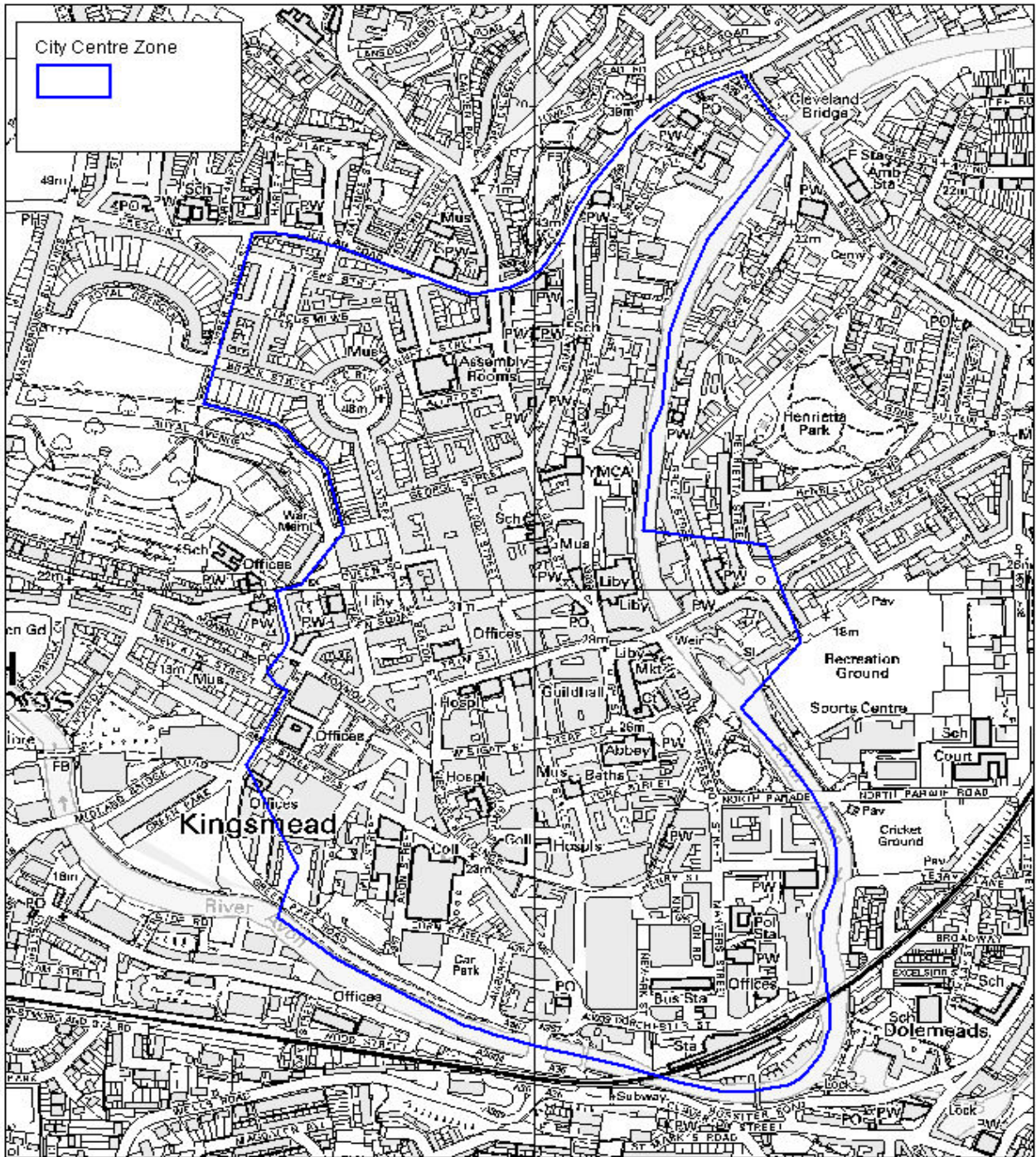
- 45.5 Sufficient information or evidence should be contained within the application to enable the holder of the Premises Licence/Club Premises Certificate or any representative of the holder of a Premises Licence/Club Premises Certificate to prepare a response.
- 45.6 Where the application for a review is from an interested party the Licensing Authority must consider whether it is irrelevant, vexatious, frivolous or repetitious.
- 45.7 Where a relevant application is received the Licensing Authority will then arrange a hearing.
- 45.8 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.

**TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>SUB COMMITTEE</b>	<b>OFFICERS</b>
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 a police objection to a Temporary Event Notices		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

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>SUB COMMITTEE</b>	<b>OFFICERS</b>
Applications for the classification of unclassified films		All cases	

# OUTLINE OF CUMULATIVE IMPACT POLICY FOR BATH CITY CENTRE



## FURTHER INFORMATION

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

Licensing  
Bath and North East Somerset Council  
9-10 Bath Street  
BATH BA1 1SN

Tel: 01225 477536  
Fax: 01225 477596  
Email: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)  
Website: [www.bathnes.gov.uk](http://www.bathnes.gov.uk)

Department for Culture, Media and Sport  
2-4 Cockspur Street  
LONDON SW1Y 5DH

Tel: 020-7211 6200  
Email: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)  
Website: [www.culture.gov.uk](http://www.culture.gov.uk)

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

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

Public Protection  
Bath and North East Somerset Council  
9-10 Bath Street  
BATH BA1 1SN

Tel: 01225 477563  
Fax: 01225 477596  
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\\_1](http://www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en_1)

National Pubwatch is an entirely voluntary organisation set up to support existing Pubwatches and encourage the creation of new Pubwatch schemes with the key aim of achieving a safe, secure social drinking environment in all licensed premises throughout the UK helping to reduce drink-related crime. Their website can be found at:

[www.nationalpubwatch.org.uk/](http://www.nationalpubwatch.org.uk/)