

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"> • the relevant enforcing authority under the Health and Safety at Work etc. Act 1974; <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 - https://www.bathnes.gov.uk/services/business/licences/alcohol-and-entertainment</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&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	Para-graph	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.	does not allow for Parish Councils to be consulted prior to the approval of TEN's. 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.	
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.	These comments are noted with thanks. 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. 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.	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"> 1. No proper police presence, not enough officers and no 24hr police station in central Bath 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 & mortar traders to keep their businesses afloat. Fill the shops first. 	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 & drinking establishments just spread existing trade & 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 & 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	Paragraph	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 4th 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"> - Licensing Act 2003: Review of the Statement of Licensing Policy – click here for all information. This consultation covers the process of licencing throughout the entire B&NES area & is directly relevant to our parish. - Licensing Act 2003: Review of the Cumulative Impact Assessment Area – covers a geographical area in the centre of Bath. – click here for all information. This consultation covers the 		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>cumulative effect of licencing within a defined area in Bath & 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 & 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>Statement of Licensing Policy, section 7, Consultees, states;</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>Stowey Sutton Parish Council Comment</p> <p>No information is given detailing how Representatives of businesses and residents of the area & 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&NES council places the burden on each and every resident, business & 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&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 & parish councils within the rural areas of the county.</p> <p>Statement of Licensing Policy, section 23, Premises Licences, states;</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 & 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>Stowey Sutton Parish Council Comment</p> <p>Whilst the list of responsible authorities is prescribed nationally, there is nothing preventing B&NES adding to this distribution list in their licencing policy & in the interests of openness & 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>Statement of Licensing Policy, section 25, Club Premises Certificates, states;</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 & 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>Stowey Sutton Parish Council Comment</p> <p>Whilst The list of responsible authorities is prescribed nationally, there is nothing preventing B&NES adding to this distribution list in their licencing policy & in the interests of openness & transparency simply including the relevant parish council in the distribution of licencing applications would go a long way towards improving community engagement.</p> <p>Statement of Licensing Policy, section 29, Temporary Event Notices, states;</p> <p><i>29.1 Temporary Event Notices do not</i></p>	<p>Please see above comment.</p>	

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>Stowey Sutton Parish Council Comment</p> <p>Events held under Temporary Event Notices are becoming increasingly common in the area surrounding our parish & whilst some are conducted reasonably & 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&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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>occur & 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 & 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>Statement of Licensing Policy, section 34, Prevention of Public Nuisance, states;</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>Stowey Sutton Parish Council Comment</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>	<p>may be in a position to make a representation against any future TEN applications.</p>	
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>	<p>These comments are noted with thanks.</p>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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 by 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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>LEGISLATION, POLICIES AND STRATEGIES</p> <p>9 Relationship with planning policies</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>12 Integrating strategies</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>14 Cumulative Impact & 15 Summary of B&NES Council's Cumulative Impact Assessment</p> <p>CUMULATIVE IMPACT POLICY</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>ADMINISTRATION OF LICENSING FUNCTIONS</p> <p>Licensing Hours</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>19 Conditions & 22 operating schedule</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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>20 Enforcement</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>26 Variation of Premises Licence or Club Premises Certificate</p> <p>Minor Variations</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"> • Make changes to layout that do not increase the customer area (beyond a de-minimis increase of, we would suggest, 10%). • (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. 		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>LICENSING OBJECTIVES</p> <p>Prevention of Crime and Disorder</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>management of particular premises and those that are not.</p> <p>Prevention of Public Nuisance</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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>Protection of children from harm</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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<p>OTHER MATTERS WE WOULD ASK YOU TO CONSIDER REFLECTING IN YOUR POLICY</p> <p>On and Off-Sales</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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>GDPR</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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>		

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>Agent of Change</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>	

Response Number	Person(s) Making Response	Paragraph	Comments	B&NES Officer Response	Recommendation
			<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>Tables and Chairs licences</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 & 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
			<p>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.</p>	<p>team.</p> <p>We agree that engagement with local residents is desired and we actively encourage this.</p>	