

REPORT OF THE HEAD OF ENVIRONMENTAL SERVICES

**THIRD REVIEW OF THE LICENSING POLICY UNDER THE
LICENSING ACT 2003**

REASON FOR REPORT

1. The Council, as licensing authority, must adopt a statement of licensing principles or **licensing policy** that sets out how it carries out its duties under the Act. That policy must be reviewed every five years. This report brings forward the third review of that document.

RECOMMENDATIONS

1. **That the Licensing Committee adopts the draft policy as amended and recommends it to the Council**

RELATIONSHIP TO CORPORATE PLAN

1. A considered licensing policy gives a framework for businesses when deciding whether to invest in Mid Devon and should help promote a thriving economy

FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS

Any financial, legal and/or risk assessment implications are set out below:

Financial	A licensing policy that is not lawful could subject the Council to judicial review with the expense that incurs
Legal	A judicial review could ensue if we do not have a lawful policy. A comprehensive policy needs to be in place when defending any appeals against licensing decisions
Risk Assessment	Low

CONSULTATION CARRIED OUT WITH:

1. The statutory consultees who are: the chief officer of police; the fire authority; public health body; persons/bodies representative of local premises licence-holders; persons/bodies representative of businesses and residents in the area (as part of this we consulted local chambers of commerce, town and parish councils).
2. We also consulted with the responsible authorities not on the statutory list to include a body competent to advise on child protection; Weights and Measures (Trading Standards); Health and Safety Executive; Environmental Health, Planning and Building Control.
3. The draft policy with an invitation to comment has also been published on our website.

1.0 INTRODUCTION

- 1.1 The Licensing Act 2003 requires Councils as licensing authorities to produce a statement of licensing principles or **licensing policy** that sets out how it will carry out its duties under the Act. How this policy is arrived at is set out in the statutory guidance produced by the Government under S.182 of the Act.
- 1.2 Our first policy was adopted by full Council on 13 December 2004 and came into effect on 7 January 2005. That policy was effective for three years and then had to be reviewed, which took place in 2007 with the revised policy coming into effect on 7 January 2008. That policy was reviewed for the second time and a revised policy was formally adopted and published on our website by 7 January 2011. We are now carrying out the third review for a policy to come into effect on 7 January 2014 and that policy will now last for five years as the Government amended the legislation.
- 1.3 This report brings to the Licensing Committee the draft policy and the results of the consultation that took place on it. The draft policy is attached as Annexe 1 and the results of the consultation are attached as Annexe 2. The draft policy attached has had some 'tidying up' done to it by the Licensing Team for clarification and to remove 'typos' and update. This was done in conjunction with the Police and further information can be provided at the meeting if required.
- 1.4 The draft policy incorporates a number of legislative changes most of which were brought in by the Police Reform and Social Responsibility Act 2012. It is also built on the experience gained by administering the provisions of the Licensing Act since it came into force on 24 November 2005.

2.0 CONSULTATION

- 2.1 The Act requires that we consult with all of those in 1 above and we also consulted with those in 2 and 3.
- 2.2 The consultation period started on 19 August 2013 and ended on 17 November 2013 and we received three responses to the document, all of which are incorporated into the table in Annexe 2.

3.0 **RECOMMENDATIONS**

- 3.1 The table in Annexe 2 reproduces all of the comments made with an accompanying officer response and a recommendation in the final column as to whether a change should be made to the policy.
- 3.2 Members may have some questions on the recommendations at the Committee meeting.
- 3.3 Members are then asked to adopt a final version of the policy to recommend to full Council.

4.0 **TIMETABLE**

- 4.1 The full Council has to adopt a reviewed policy to be in place for 7 January 2014, which will be in place for the following five years.
- 4.2 The Licensing Committee is requested to recommend the adoption of the policy by full Council at its meeting on 18 December 2013.

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Background Papers	Licensing Act 2003, S.182 Guidance
File Reference	Licensing/Licensing Policy Review 2013
Circulation of the Report	Licensing Committee Respondees



Mid Devon District Council

SERVICE LICENSING

**TITLE LICENSING
POLICY**

DRAFT

December 2013

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Foreword

This is the third review of our Statement of Licensing Policy which the Council is required, by law, to carry out every five years.

Since the Licensing Act 2003 came into force in November 2005, this Licensing Authority, in common with Licensing Authorities throughout the country, has gained valuable experience in the administration and enforcement of the legislation. We have worked with those we licence in order to foster good relationships and have provided training on the Act as well as sending out regular newsletters to the varied trade that we have in our largely rural district. A number of changes have been introduced to the legislative framework and we have kept those we licence informed of those and their significance. We are very keen to continue this good working relationship and in this policy we want to provide information and guidance to applicants, licence holders, responsible authorities, local businesses and local residents on the stance that the Licensing Authority will take when assessing applications and sets out the operating standards we will expect to see.

This revision of our Policy has been carried out in partnership with Licensing Officers in Devon and we are particularly grateful for the work carried out by Officers from North Devon and Torridge.

Our Policy is in place to ensure fair and consistent application of the legislation for the benefit of those who are licensed and those affected by the impact of licensable activities. Our Licensing Team and Members of the Licensing Committee are well trained and have a good understanding of the legislation in order to achieve this.

The leisure and entertainment industry is a significant contributor to the economy of the District. It attracts tourists and visitors to our area, makes for vibrant towns and communities and is a major employer. The Council recognises the value of the industry to the economic health of the area and is keen to promote well managed premises. Our Corporate Plan has a thriving economy as one of its aims and we would expect this Policy to promote that. However, the Council – as the licensing authority – also has to take account of the needs of its residents who are entitled to the peaceful enjoyment of their property and possessions. Through this policy, the Licensing Authority will try to reconcile these often conflicting demands, balancing the legitimate needs of business with the rights of people living in the vicinity of licensed premises.

Glanmor Hughes
Chair of the Licensing Committee
Mid Devon District Council

1 INTRODUCTION

NB: This policy is intended to provide general guidance only. It does not constitute a definitive statement of law. Applicants who require legal advice on a specific licensing topic are advised to consult a licensing solicitor. Text in these shaded boxes is advisory or explanatory and intended only to give general assistance.

- 1.1 Section 5 of the Licensing Act 2003 requires each Licensing Authority “to determine a policy with respect to the exercise of its licensing functions”. This Statement of Licensing Policy (“the Policy”) draws its authority from the Licensing Act 2003 (“the Act”) and has been prepared in accordance with revised Guidance issued by the Home Office under Section 182 of the Act in June 2013.

The Policy has four main purposes:

- to assist the Licensing Authority in determining licence applications in a consistent and equitable manner;
- to inform and advise applicants;
- to inform and advise residents and businesses; and
- to inform a court at appeal.

- 1.2 The Policy relates to the licensable activities identified by the Act, namely:

- retail sale of alcohol
- supply of alcohol to club members
- provision of ‘regulated entertainment’ – to the public, to club members or with a view to profit. Regulated entertainment is defined by the Act as:
 - a performance of a play
 - an exhibition of a film
 - an indoor sporting event
 - boxing or wrestling entertainment
 - a performance of live music
 - any playing of recorded music
 - a performance of dance
 - entertainment of a similar description to live music, recorded music or dance

All of the above have to be in the presence of an audience with the purpose of entertaining that audience.

- The supply of hot food and/or hot drink from any premises including mobile food stalls between 11pm and 5am.

- 1.3 This Policy sets out those matters that Mid Devon District Council Licensing Authority (“the Authority”) will normally take into account when determining licence applications. Additionally, the document seeks to provide clarity for applicants, residents and members of the business community, thus enabling them to make plans to move to, remain in or invest in the district with some measure of certainty.

Section 5 of the Licensing Act 2003 (as amended by s.122 of the Police Reform and Social Responsibility Act 2012) requires a Licensing Authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the Authority carries out any function in respect of individual applications made under the 2003 Act.

The Licensing Authority will keep this policy statement under review and make such changes as it feels necessary in accordance with any changes in the legislation and local circumstances. When revisions are made, the Authority will publish a statement of those revisions.

1.4 The Licensing Authority Area

Mid Devon is one of the larger local authorities in England with a rural area of 353 square miles or 914km², but is sparsely populated. Tiverton is the largest town with a population of 21913 and the other two major towns are Cullompton with a population of 8845 and Crediton with a population of 7770. The rest of the population of 79826 is spread throughout the district in villages and hamlets stretching from Dartmoor to Exmoor to the Blackdown Hills. (Figures from the 2012 Patient & Practitioner Service Agency estimates for 2012.)



The entertainment and hospitality industry within the district is a contributor to the economy of Mid Devon – it helps attract visitors and tourists, making for vibrant towns and communities and is also a significant employer. The average wage in the district is £20851 compared with £22022 for Devon and £27569 for England. (Figures from ONS Annual Survey of Hours & Earnings 2011.)

Some local residents may be affected by entertainment uses and the hours of operation. It is the duty of the licence operators to ensure that their licensable activities do not unduly affect these residents and that they meet the licensing objectives.

Equally, however, commercial operators of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.

At the time of preparing this Policy, the Authority has responsibility for regulating:

- 323 alcohol-licensed premises/clubs
- 63 non-alcohol licensed premises
- 399 temporary event notices (2012 figure)

2 CONSULTATION

2.1 In preparing this Policy the Licensing Authority has consulted the following:

- The Chief Officer of Police
- Devon and Somerset Fire and Rescue Service
- Public Health Devon
- Devon Safeguarding Children's Board
- Devon County Council Trading Standards
- Representatives of local premises licence holders
- Representatives of local club premises certificate holders
- Representatives of local personal licence holders
- Local businesses and their representatives
- Local residents and their representatives

Consultation was carried out between 19 August 2013 and 17 November 2013 in accordance with HM Government's Code of Practice on Consultation.

2.2 Proper weight has been given to the views of organisations and individuals consulted prior to implementing this Policy.

2.3 This Policy was formally adopted by the Council on 18 December 2013.

2.4 This Policy will remain in force for a maximum period of five years and will then be subject to review and further consultation. The Authority may revise the Policy at any time during the five year period if it considers it appropriate to do so. The Authority will consult on any substantial revisions to the Policy.

Section 5(3) of the Act places a legal obligation on licensing authorities to consult the above individuals, groups and organisations when determining and publishing its Statement of Licensing Policy. However, the Authority may consult beyond the statutory requirements if it believes this is necessary and appropriate.

3 THE LICENSING OBJECTIVES

3.1 The Authority has a duty under s.4 of the Act to carry out its licensing functions with the aim of promoting the four licensing objectives which are:

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

Each licensing objective is of equal importance. When discharging its licensing function the Authority will attach the utmost importance to the promotion of the objectives.

3.2 The Prevention of Crime and Disorder

- 3.2.1 The Authority will endeavour to reduce crime and disorder throughout the district in accordance with its statutory duty under s.17 of the Crime and Disorder Act 1998. Where relevant representations are made the Licensing Authority may look more favourably upon applications where the applicant has addressed the issue of preventing crime and disorder in a positive way.
- 3.2.2 The Authority will require applicants to take appropriate and proportionate measures to promote the prevention of crime and disorder objective. Advice on such measures may be found in the Supporting Guidance – Pools of Conditions produced by the Home Office to support the S.182 Guidance and there is a link on our website.

3.3 Public Safety

- 3.3.1 All premises are risk-rated by the Licensing Authority and are subject to both announced and unannounced inspections (including multi-agency inspections).
- 3.3.2 The Authority will require applicants to take appropriate and proportionate measures to promote the public safety objective. Advice on such measures may be found in the Supporting Guidance – Pools of Conditions produced by the Home Office to support the S.182 Guidance and there is a link on our website.

3.4 Prevention of Public Nuisance

- 3.4.1 Public nuisance can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the wider community. Nuisance is generally attributable to noise (from loud music or noisy customers), vibration, light pollution, noxious smells and litter. Applicants will be required to demonstrate that they have adequate measures in place in their applications to prevent nuisance and disturbance.
- 3.4.2 Noise from people entering and leaving licensed premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers under the influence of alcohol are often less inhibited about their behaviour and may be unaware of the noise they are creating. As background noise levels are lower at night, any noise is more intrusive for residents trying to sleep.
- 3.4.3 The Authority will require applicants to take appropriate and proportionate measures to promote the prevention of public nuisance objective. Advice on such measures may be found in the Supporting Guidance – Pools of Conditions produced by the Home Office to support the S.182 Guidance and there is a link on our website.

3.5 Protection of Children from Harm

- 3.5.1 The Authority recognises the great variety of premises for which licences may be sought. These include theatres, members' clubs, sports clubs, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls, schools, supermarkets and off-licences. The Authority will not seek to restrict access by children to any particular type of premises unless it is considered necessary to do so in order to protect them from harm.
- 3.5.2 The Authority will require applicants to take appropriate and proportionate measures to promote the protection of children from harm objective. Advice on such measures may be found in the

Supporting Guidance – Pools of Conditions produced by the Home Office to support the S.182 Guidance and there is a link on our website.

4.0 THE LICENSING FUNCTION

4.1 Regulation

- 4.1.1 Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events under the provisions of the Act. Licensing also involves making judgements about risk; in particular the risk of any adverse effect on the licensing objectives of granting licences and club premises certificates.
- 4.1.2 The licensing function is only one means of delivering the licensing objectives and should not be seen as a panacea for solving all alcohol- and entertainment-related problems within the community. The Authority recognises that as well as the licensing function there are a number of other mechanisms for addressing alcohol-related crime and disorder such as:
- planning controls
 - Community Alcohol Partnerships
 - installation and/or expansion of CCTV systems in problem areas
 - powers to designate parts of the District as places where alcohol may not be consumed publicly (Designated Public Places Orders)
 - S.27 and s.30 Dispersal Orders (Anti-Social Behaviour Act 2003)
 - police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise (Licensing Act, ss.160 & 161)
 - the power of responsible authorities and other persons to apply for a review of the licence (see 9.2)

The Authority will therefore continue to work in partnership with other Licensing Authorities, the Responsible Authorities, other agencies such as the East and Mid Devon Community Safety Partnership and with local businesses and residents in a co-ordinated approach to tackling alcohol-related crime and anti-social behaviour.

- 4.1.3 In discharging its licensing function, the Licensing Authority will comply with relevant legislation and have regard to:

(i) Strategies

- current East and Mid Devon Community Safety Strategy
- current Government alcohol strategy
- LGR/TSI Code of Best Practice on Test Purchasing
- Mid Devon Corporate Plan 2012-2015

(ii) Policies/Codes of Practice

- Regulators' Compliance Code (BIS)
- Mid Devon District Council's Enforcement Policy
- DCC Local Transport Plan

(iii) Guidance

- Guidance issued under s.182 of the Licensing Act 2003 (Home Office)
- Guidance to Health and Safety at Outdoor Events (Purple Book)
- Guide to Fire Precautions in Entertainments and Like Premises
- Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- Good Practice in Managing the Evening and Late Night Economy (ODPM)
- LGR Guidance on Licensing Large Outdoor Events
- Technical Standards for Places of Public Entertainment (ABTT/IOL)

- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- Home Office Guide to Safer Clubbing
- 'No Proof of Age – No Sale' (Trading Standards handbook)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

- 4.1.4 The central purpose of the licensing function is to promote the licensing objectives through the effective regulation of licensed premises, qualifying clubs and temporary events. The Authority is keen to foster a safe and vibrant leisure economy and will work with applicants and licence holders to encourage and sustain well managed premises which make a positive contribution to the community. The Authority will expect applicants and licence holders to demonstrate that they have given thought to and have in place adequate measures to ensure that the operation of their premises will not have an adverse effect on the quality of life of persons living and/or working in the vicinity of the premises.
- 4.1.5 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub Committee of the Licensing Committee or by one or more officers acting under delegated authority. Many licensing procedures are largely administrative with no perceived areas of contention. In the interests of efficiency, these procedures will generally be carried out by licensing officers.
- 4.1.6 The Authority will ensure that all Officers and Members have received adequate and appropriate training for their roles under the Licensing Act 2003.
- 4.1.7 The Authority will delegate its functions in the following ways:

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for personal licence		If a police objection made	If no police objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for minor variation of premises licence/club premises certificate			All cases
Application to vary designated premises supervisor		If a police objection made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection made	All other cases
Applications for interim authorities		If a police objection made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence for community premises to include alternative licence condition		If a police objection made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Suspension of premises licence/club premises certificate for non-payment of annual fee			All cases
Review of Statement of Licensing Policy	All cases (Full Council)		
Implementation of a Late Night Levy	All cases (Full Council)		
Creation of an Early Morning Restriction Order	All cases (Full Council)		

4.2 The Licensing Authority as Responsible Authority

- 4.2.1 Section 103 of the Police Reform and Social Responsibility Act 2011 amended the Licensing Act by making the Licensing authority a 'Responsible Authority'. This enables the Authority to make representations about an application for a premises licence or club premises certificate or to apply for a review of a premises licence or a club premises certificate.
- 4.2.2 In cases where the Authority is acting in its capacity as a responsible authority, it has established a clear separation of responsibilities within the Authority's Licensing Team in order to ensure procedural fairness and to avoid potential conflict of interest. This Authority's Licensing Committee agreed a procedure at a meeting on 4 September 2012.

4.3 Integrating Strategies and Avoiding Duplication

- 4.3.1 This Policy supports a key goal in the Council's Corporate Plan:

- Thriving economy – to create a prosperous economy, secure and well-paid jobs and a sustainable environment

The Authority recognises that unnecessary and over-burdensome regulation can prevent businesses from thriving and growing. The Authority will therefore endeavour to regulate licensed premises in a proportionate manner in accordance with the Regulators' Compliance Code. Premises will be assessed on the basis of risk to the promotion of the licensing objectives and inspections will only be carried out when and if they are judged to be necessary.

- 4.3.2 The Authority will endeavour to ensure that this Statement of Licensing Policy is aligned with and supports local crime prevention, planning, transport, tourism and cultural strategies (see 4.1.3). To this end, the Authority will work closely with other agencies and will contribute, where appropriate, to the development of policies and initiatives to tackle alcohol-related crime and disorder. This may include promoting and participating in schemes such as Best Bar None, Purple Flag, Business Improvement Districts etc as well as Mid Devon's Community Alcohol Project.
- 4.3.3 The Authority recognises that it is a fundamental principle of the Act that the licensing function should not duplicate other statutory regulation. In particular, the Licensing Authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. Applicants are recommended, however, to ensure that appropriate planning permissions are obtained before an application for a premises licence or club premises certificate is made. (See Section 7 – Licence Conditions – for further advice).

Home Office guidance makes it clear that licensing committees are not bound by decisions made by planning committees and vice-versa. The Guidance also states that, where, as a condition of a planning permission, a terminal hour has been set for use of the premises for commercial purposes and this is different to the licensing hours, the applicant must observe the earlier closing times. (Home Office Guidance 13.55 and 13.56)

4.4 Large Scale Public Events and the Safety Advisory Group (SAG) Function

- 4.4.1 The Council recommends that organisers of large scale public events (outdoor music concerts, sporting events, festivals, carnivals, firework displays etc) consult the Council at the earliest opportunity to discuss arrangements for the licensing of those activities falling under the Act.
- 4.4.2 In respect of some events, the organisers may require a single premises licence to cover a wide range of activities at different locations within the premises. This may involve the preparation of a substantial operating schedule. For other events, applications for connected premises licences or TENs may be made which in combination will represent a single event. The Authority consider it is essential to have proper co-ordination of such arrangements and will expect organisers to work with the Authority in ensuring that responsible authorities are aware of the connected nature of the individual applications.
- 4.4.3 Mid Devon District Council hosts a Safety Advisory Group for the district and organisers are advised to contact the Group well in advance of their events to benefit from the advice and guidance of all the regulatory authorities represented. Contact details are available from the Licensing Team.

4.5 Related Legislation

- 4.5.1 There is a significant interplay between the Licensing Act and other legislation. The Authority will endeavour to interpret and apply other statutory requirements in a way which is consistent with the promotion of the licensing objectives.

4.5.2 Criminal Justice and Police Act 2001.

Under the provisions of the Act, consumption of alcohol is not a licensable activity. However, the Authority recognises that consumption of alcohol can be a major contributory factor to disorder and nuisance both within and outside licensed premises. This Council has adopted the relevant powers under the Criminal Justice and Police Act 2001 to designate parts of the District as places where alcohol may not be consumed publicly.

Three areas within Tiverton, Crediton and Cullompton are currently designated as alcohol controlled zones. The Authority, in conjunction with the police, East and Mid Devon Community Safety Partnership and other responsible authorities, will keep this under review and may recommend the designation of other areas if there is evidence that this is necessary to reduce or prevent alcohol-related crime and disorder.

4.5.3 Gambling Act 2005

The provision of gaming machines and certain forms of low-stakes gambling (eg poker, bingo) are permitted in alcohol-licensed premises and qualifying clubs under the Gambling Act 2005. The type of gambling allowed and stakes and prizes are specified in regulations and are set at levels which are designed to keep this form of gaming a low-risk, sociable activity. Generally, such gaming should be ancillary to the primary use of the premises. The Authority may take action against a premises where it believes that gaming is becoming the dominant activity or is having a detrimental effect on the licensing objectives.

4.5.4 Health Act 2006

The introduction of the Health Act 2006 which prohibited smoking in enclosed or substantially enclosed spaces in England has had a significant impact on alcohol-licensed premises and qualifying clubs. In many premises, customers wishing to smoke must do so in beer gardens, outdoor patio areas or in the street. This can result in noise, nuisance and anti-social behaviour for nearby residents, businesses and passers-by, especially late at night when background noise levels are low. The Authority will expect applicants and licence holders to have particular regard to the management of customers in the immediate vicinity of their premises to ensure that their behaviour does not cause offence or undermine the licensing objectives.

4.5.5 Live Music Act 2012

In order to promote live music, the Government has de-regulated various types of live music through the Live Music Act which came into effect in October 2012. Under the Act, a licence will no longer be required for:

- amplified live music between 8.00 am and 11.00 pm before an audience of less than 200 people on premises licensed for sale of alcohol for consumption on the premises
- amplified live music between 8.00 am and 11.00 pm before an audience of less than 200 people in premises not licensed under LA2003 (or licensed only for late night refreshment)
- unamplified live music between 8.00 am and 11.00 pm in all venues
- provision of 'entertainment facilities', that is:
 - i. facilities for making music;
 - ii. facilities for dancing; and
 - iii. any entertainment of a similar description to i and ii above.

Any conditions relating to live music which are attached to a premises licence or a Club Premises Certificate will stay in place but will be suspended between 8.00 am and 11.00 pm. However, the licensing authority will be able to re-impose these conditions (or attach new conditions) following a review of a licence.

A licence will still be required for:

- performances of live music – amplified or unamplified – between 11.00 pm and 8.00 am
- a performance of amplified live music on unlicensed premises unless it is a workplace when it would only need a licence after 11.00 pm and before 8.00 am
- performances of amplified live music on licensed or unlicensed premises before an audience of more than 200 people
- a performance of amplified live music at licensed premises when the premises are not being used for the sale of alcohol for consumption on the premises.

The Authority recognises the importance of encouraging live music as part of the Authority's wider cultural strategy and will endeavour to promote this activity through its licensing function. However, applicants and licence holders must be aware that, although certain types of live music are no longer licensable, this does not mean that such activity is totally exempt from licensing controls. The legal duty on licence holders to promote the licensing objectives remains. A responsible authority or any other person may apply for a review of a premises licence where it can be demonstrated that live music provided under the provisions of the Live Music Act undermines any of the licensing objectives.

When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance constitutes live music or not. If in doubt, organisers of events should check with the licensing authority.

The impact of this Policy on regulated entertainment, particularly live music and dancing will be monitored. Where it appears that such events are being deterred or constrained by licensing requirements, the Policy will be reviewed.

4.5.6 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into effect on the 27 June 2013. As a result of the Order, no licence is required for the following activities to the extent that they take place between 08:00-23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people;

- an indoor sporting event in the presence of any audience of no more than 1,000 people;
- most performances of dance in the presence of any audience of no more than 500 people.

Any current licence condition that relates to an activity for which a licence is no longer required will have no effect, except in certain circumstances where non-licensable activities take place at the same time as other activities for which a licence is required. Licence holders wishing to remove such conditions may apply for a licence variation. In the course of considering such applications, the Licensing Authority will generally remove such conditions unless there are sufficiently serious specific concerns about the hosting of deregulated entertainment activities in relation to the remaining licensable activities taking place in the premises in question. Further deregulation of regulated entertainment is on the way and organisers are advised to check with the licensing authority if they are putting on events.

4.5.7 Sexual Entertainment Venues

Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not affected by The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.

In almost all cases where a performance of dance is potentially licensable as both the provision of *relevant* entertainment (under the 1982 Act) and *regulated* entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act will be required where:

- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
- relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

Where the promoter of a sexual entertainment venue wishes to provide any of the licensable activities as outlined in the Licensing Act 2003 in addition to relevant entertainment, a premises licence will also be required to authorise such activities.

The Council has an adopted Sex Establishment Policy which stands separate from this Licensing Policy. The Policy may be viewed on the licensing webpages of Mid Devon District Council.

5. THE LICENSING PROCESS

5.1 Applications

- 5.1.1 Application forms may be downloaded from the Authority’s licensing webpages. Applicants are strongly recommended to discuss their application with a member of the Licensing Team prior to formal submission. The Authority may reject applications which have not been completed correctly or contain insufficient information.
- 5.1.2 Applications, notices or relevant representations shall be treated as having been “given” to the Authority in accordance with the principles of “deemed service” as set out in the Civil Procedure Rules.
- 5.1.3 The Act requires that applications for premises licences/club premises certificates – or variations thereof – are advertised in accordance with regulations. The Authority will need to be satisfied that

the applicant has complied fully with these regulations and may request copies of notices and advertisements to verify that the application has been properly made. If an application has not been correctly advertised, the Authority may reject the application. Further guidance on advertising applications is available on the Licensing Act 2003 pages available on the Authority's website.

5.2.1 Representations

- 5.2.1 Representations must be made to the Authority in writing within the 28 day consultation period. For this purpose, a representation made by e-mail or facsimile transmission will be acceptable.
- 5.2.2 Section 18(6) of the Licensing Act 2003 defines what constitutes a 'relevant' representation. To be relevant, a representation must relate to the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives. There is nothing in the Act to say that a representation must be of a negative nature. The Act specifically refers to 'representations' rather than 'objections' recognising that representations may express positive support for an application. The Authority will consider both positive and negative representations provided they are relevant.
- 5.2.3 Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application will be considered by a Licensing Sub Committee at a hearing as will any application for review of a licence (see 9.2). The Authority has established its own hearing procedure as provided for by regulations made under the Act and this is included at Appendix A.

Home Office Guidance states "A hearing is not required where an application has been properly made and no Responsible Authority or other person has made a relevant representation. In these cases, the licensing authority must grant the application on the terms sought subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the Act". (Guidance 9.2)

- 5.2.4 Any party to a hearing may expand on their representation but may not add new or different representations.
- 5.2.5 Representations which are deemed by the Authority to be repetitious, frivolous, vexatious may be disregarded.
- 5.2.6 Where a notice of a hearing is given to an applicant, the Licensing Authority is required by regulations to provide the applicant with copies of the relevant representations that have been made. In exceptional circumstances, a person wishing to make a representation may be reluctant to do so because of fears of intimidation or harassment if their personal details are disclosed to the applicant. Where the Authority considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation, the Authority may consider alternative approaches. For example, the Authority may advise the individual to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified. Alternatively, the Authority may advise the individual to request their local councillor to make a representation on their behalf. Where appropriate, the Authority may decide to withhold some or all of the person's details from the applicant. The Authority will only withhold such details where the circumstances justify such action. Persons making representations should be aware that their personal details will normally be disclosed during the hearing process.

5.3 Determining Applications

- 5.3.1 When determining a licence application, **the overriding principle adopted by this Authority will be that each application will be determined on its merits.** The Authority will have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems necessary to promote the licensing objectives. The Authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The Authority will give reasons for any such departure from policy.

- 5.3.2 The Authority will expect applicants to demonstrate in their applications active steps for the promotion the licensing objectives. When determining an application, a key consideration for the Authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community. It might be that the applicant has considered all of this and decides that no measures will be appropriate to cover promotion of one or more of the licensing objectives but that consideration will need to be made by the applicant.
- 5.3.3 The Authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, anti-social behaviour, littering, fouling, and noise, particularly late at night and in the early morning.
- 5.3.4 Since the introduction of the Act, the Authority's experience is that the vast majority of complaints about licensed premises are caused by public nuisance, in particular excessive noise from live and recorded music and disturbance caused by customers congregating outside licensed premises. **The Authority will expect applicants to have particular regard to these issues and, if considered appropriate, to include in their Operating Schedules adequate and effective steps to control noise and disturbance from their premises. Existing licence holders will also be expected to demonstrate – through the effective management of their premises – that they are taking appropriate and reasonable steps within their control to minimise disorder, anti-social behaviour and public nuisance.**

Public nuisance is not defined in the Licensing Act 2003 and retains its broad common law meaning. It should be noted that public nuisance can include low-level nuisance affecting a few people living locally as well as major disturbance affecting the whole community. It may also include the reduction of the living and working amenity and environment of persons and businesses in the vicinity of licensed premises. (Home Office Guidance 2.19)

- 5.3.5 When determining an application, the Authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The Authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the Authority will consider their application or representation but may attach less weight to it.
- 5.3.6 It should be noted that, when determining an application, the Authority is making a judgement about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened but to make an informed assessment of the risk of such things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks.
- 5.3.7 The Authority will generally give its decision on an application at the end of a hearing and will give clear reasons for its decision. In all other cases, the Authority will make its determination within five working days.
- 5.3.8 Any party to a hearing who is dissatisfied with the Authority's decision may appeal to the Magistrates' Court. An appeal must be made within 21 days of formal notification of the decision.

5.4 Mobile, Remote, Internet and Other Delivery Sales

- 5.4.1 The Licensing Authority shall have due regard to sales of alcohol which are made remotely, by mobile methods, internet or by other delivery sales.
- 5.4.2 The expectation of the Licensing Authority is that conditions suggested by way of operating schedules for these types of activities are extremely robust. If new applications are made or existing premises are looking to extend into this area they might like to seek advice from the police as it might be appropriate for provisions in the operating schedule in respect of age verification and restriction of delivery times/quantities.

6.0 LICENSING HOURS

- 6.1 In general, the Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with hours beyond midnight higher standards of control and supervision will be expected in order to promote the licensing objectives - especially for premises situated in or near residential areas.
- 6.2 The Act does not provide for standard closing times. Licensed premises will generally be permitted to sell alcohol during the hours they intend to open provided they can demonstrate to the satisfaction of the Licensing Authority that the premises will be operated in a manner consistent with the licensing objectives, Home Office guidance and this Policy. **However, there is no presumption that applications for extended hours will be granted if the Licensing Authority's discretion is engaged and the applicant is unable to demonstrate that such a grant will not undermine the licensing objectives.**
- 6.3 The licensed hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives. The Licensing Authority may, however, set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area or is necessary to achieve one or more of the licensing objectives.

Home Office Guidance states that the licensing objectives should be the Authority's paramount consideration at all times when determining applications. If the Licensing Committee or a sub-Committee believes that granting longer hours would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested. (Guidance 10.12)

- 6.4 The Licensing Authority recognises that fixed and artificially early 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. Flexible licensing hours in relation to the sale of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have already been incidents of disorder and disturbance.
- 6.5 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops, which are known to be a focus of disorder and disturbance then, where relevant representations are received from a responsible authority or an interested party, the licensing authority may consider a restriction on licensed hours where this is necessary to promote one or more of the licensing objectives.

7. LICENCE CONDITIONS

- 7.1 Conditions attached to a premises licence or club premises certificate are a key element of the regulatory framework established by the Act. There are three types of condition:

- mandatory conditions set out in the Act,
- conditions consistent with the operating schedule, and
- conditions imposed by the licensing authority.

The Licensing Authority may only impose conditions on a premises licence or club premises certificate where it has received a relevant representation about an application. The application will then be determined at a hearing by a Licensing sub-Committee. If no relevant representation is received, the application must be granted on the terms applied for subject only to the mandatory conditions and conditions consistent with the Operating Schedule.

- 7.2 Conditions are crucial in setting the parameters within which premises can lawfully operate. Any contravention of a condition on a premises licence or club premises certificate is a criminal offence so it is essential that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:

- be appropriate, reasonable and proportionate
- be enforceable
- not duplicate other statutory requirements
- be relevant to the particular type, location and character of the premises concerned
- not be standardised
- should be justifiable and capable of being met
- not replicate offences set out in the Act or in other legislation
- be written in a prescriptive format

7.3 The Authority encourages applicants to seek technical advice from the appropriate responsible authorities when preparing their Operating Schedules as this will enable any problems to be resolved at an early stage and will reduce the likelihood of representations.

7.4 Experience has shown that many of the conditions volunteered by applicants are poorly worded, unclear or ambiguous and therefore unenforceable. As an aid to applicants, the Authority advises that applicants look at the Home Office publication – Supporting Guidance – Pools of Conditions. The Authority, in consultation with the applicant, may amend the wording of proposed conditions where this is unclear, ambiguous or unenforceable.

Home Office guidance states that it is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention. ((Home Office Guidance 1.16))

7.5 The Authority will pay particular attention to the effect – potential or actual - of licensable activities on those living, working or otherwise engaged in the area concerned and, where relevant representations are received, may attach conditions if it considers it appropriate for the promotion of the licensing objectives.

7.6 Conditions attached by the Authority to Premises Licences and Club premises certificates will relate to matters falling within the control of individual licensees. It is recognised that the licensing function cannot be a mechanism for the control of disorderly behaviour by individuals once they are beyond the direct control of the licence holder. However, the Licensing Authority and Responsible Authorities may take action where it can be established that there is a clear linkage between disorderly behaviour and a specific premises.

7.7 The Authority will not impose inappropriate or over-burdensome conditions on licences. The Authority may, however, if its discretion is engaged, impose conditions where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives.

7.8 The Authority is keen to encourage the presence of properly trained staff on licensed premises. Applicants may wish to consider how they employ Personal Licence Holders as properly trained staff, as a measure to promote the licensing objectives. In all premises licensed to sell alcohol responsible persons should be authorised to oversee the sale of alcohol in the absence of the Premises Supervisor/Personal Licence holder. The Authority will expect the authorisations to be made in writing, to be current, kept securely on the premises and made available for inspection by an authorised person if requested.

NB. 'Authorisation' does not mean direct supervision. The government recommends that Personal Licence holders give specific written authorisations to individuals they are authorising to sell or supply alcohol and that such individuals are clearly identified (Home Office Guidance 10.30 and 10.32)

7.9 Disapplication of Certain Mandatory Conditions for Community Premises

7.9.1 An amendment to the Licensing Act 2003 made in 2009 allows certain community premises which have or are applying for a premises licence that authorises alcohol sales to also apply to include the 'alternative licence condition' instead of the usual mandatory conditions in sections 19(2) and 19(3)

of the Act (requirement for a DPS and for alcohol sales to be made or authorised by a personal licence holder). Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises.

- 7.9.2 Where it is not clear whether premises are community premises, the Licensing Authority will approach the matter on a case by case basis. The main consideration being how the premises are predominantly used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include purposes beneficial to the community as a whole, the premises will be likely to meet the definition.

8. CUMULATIVE IMPACT

Cumulative impact 'or 'saturation' is not specifically mentioned in the Act but is defined in Home Office guidance as 'the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area'. Whilst flexible opening hours may encourage the gradual dispersal of customers from premises, it is possible that the behaviour of customers from a concentration of premises, taken together, may have a disproportionate impact on the amenity of the surrounding area. Where a Licensing Authority believes that a particular area is becoming saturated with licensed premises, it may adopt a 'special policy' of refusing applications for new premises licences where relevant representations relating to cumulative impact have been received.

- 8.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. This should not, however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 8.2.1 If the Authority receives relevant representations suggesting that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type and thereby creating problems of disorder and nuisance over and above the impact of the individual premises, the Authority may consider the issue of cumulative impact when determining an application. The onus is on any person, or organisation, making such representations to prove the assertion that the grant of the licence would cause the cumulative impact claimed.
- 8.2.2 The Authority does not propose to operate a quota system of any kind, which would have the effect of pre-determining any application; nor does it seek to impose general limitations on trading hours in particular areas. The Authority recognises that pubs, clubs, restaurants, hotels, theatres, concert halls and cinemas have contrasting characteristics and styles of operation. Proper regard will be given to those differences and the impact they are likely to have on the promotion of the licensing objectives.
- 8.2.3 In determining whether to adopt a 'special' policy for a particular area the Licensing Authority may, among other things:
- Gather evidence of relevant concerns from a responsible authority or local residents about crime and disorder and public nuisance;
 - Consider whether there is robust evidence of crime and disorder or public nuisance and whether this is caused by customers of licensed premises or that the risk of cumulative impact is imminent.
 - Identify the area in which problems occur and the boundaries of that area;
 - Make an assessment of the cause(s);
 - Consult with those mentioned in section 5(3) of the Licensing Act 2003;
 - Include and publish details of any special policy in this licensing policy;
 - Review any such special policy regularly.
- 8.3 Where there is evidence that a particular area of the District is already suffering adverse effects arising from a concentration of late night premises, or that residential areas are under stress, this may be taken into account in determining any further applications for licences within the area identified. In such circumstances the Licensing Authority may take into account:

- The character of the surrounding area;
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences;
- The nature and character of the proposed operation.
- Evidence from a Responsible Authority of potential or actual negative impact on the licensing objectives in any given area,
- The number of substantiated complaints about licensed premises received from residents and/or businesses in any given area.

8.3 This Authority does not currently propose to adopt a 'special policy' in relation to cumulative impact.

9. ENFORCEMENT

9.1 Enforcement Activity and Policy

- 9.1.1 The Licensing Authority employs officers who, amongst other duties, investigate complaints against licensed premises, allegations of unlicensed activities, and the breach of licence conditions. Enforcement may be carried out independently by these authorised persons or in partnership with other enforcement agencies and Responsible Authorities. Where joint enforcement work is envisaged, the Licensing Authority will establish appropriate protocols, which will be reviewed at regular intervals.
- 9.1.2 In general, action will be taken in accordance with the Authority's Environmental Health Enforcement Policy. The Authority will apply the key principles of targeting, consistency, transparency and proportionality in accordance with the Regulatory Compliance Code. Inspection and enforcement will be risk-based with a lighter touch being adopted for premises which are well managed and where there is little or no evidence of crime and disorder, public nuisance or other problems.
- 9.1.3 An incremental approach will be adopted starting with a verbal or written warning for infringements of the law or failure to comply with licence conditions. Failure to respond to such warnings will result in stronger enforcement measures being taken, which could lead to a prosecution or an application being made for the review of a licence or club premises certificate (see 9.2). (Please refer to section 18.0 with regard to the suspension of a premises licence or club premises certificate for non-payment of an annual fee.)
- 9.1.4 The Licensing Authority will refer to the following Policies when considering enforcement:
- Enforcement Concordat
 - The Regulators' Compliance Code
 - Enforcement Protocol agreed with Devon and Cornwall Constabulary

9.2 Review

- 9.2.1 A Responsible Authority and any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising at the premises which may have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Sub Committee at a hearing.
- 9.2.2 Any application for a review should be treated seriously. Responsible authorities will aim to give licensees early warning of any concerns identified at a premises, and talk to the licence or certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. Similarly those seeking a review which are not a responsible authority are encouraged to take initial steps such as:
- asking the Licensing Authority to talk to the licence holder on their behalf
 - asking their local MP or Councillor to speak to the licence holder on their behalf

- talking to the relevant responsible authority (eg Environmental Health in relation to noise nuisance or the police in relation to crime and disorder) to establish whether there is other action that can be taken to resolve the problem.

9.2.3 The review process is not intended as a means of challenging the grant of a licence following the failure of representations to persuade the licensing authority on an earlier occasion. No more than one review from a person other than a Responsible Authority will be entertained in relation to a particular premises within a period of twelve months on similar grounds, save in compelling circumstances (e.g. where new problems have arisen) or where it arises following a closure order made under s.160 or s.161 of the Act.

9.2.4 When considering a review of a premises licence or club premises certificate, the Authority will expect the applicants for the review to provide evidence of infringements of licensing regulations, failure to comply with licence conditions and/or of failure to promote the licensing objectives. Further guidance on the review procedure is available from the Home Office (www.homeoffice.gov.uk) and Mid Devon Council (www.middevon.gov.uk/licensing).

9.2.5 Following a review, the Authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available to the Authority are:

- to modify the conditions of licence
- to exclude a licensable activity from the scope of the licence
- to remove the designated premises supervisor
- to suspend the licence for a period of not more than three months
- to revoke the licence

9.2.6 In cases where the crime and disorder objective has been undermined or where it can be demonstrated that a premises has a history of persistent offending, suspension or revocation of a licence, even in the first instance, may be seriously considered as a form of deterrence. (See also 10.6.)

9.2.7 Any person aggrieved by the decision of the Authority has the right of appeal to the Magistrates' Court. An appeal must be made within 21 days of the Licensing Authority's decision.

10. CHILDREN IN LICENSED PREMISES

10.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, registered clubs, cafes, takeaways, community halls and schools. As a general principle, access by children to licensed premises will not be limited, and any restrictions will be left to the discretion of the licensee unless it is considered necessary to protect children from harm.

10.2 When deciding whether to limit access to children, the Licensing Authority will judge each application on its individual merits. Examples which may give rise to concern in respect of children would include premises:

- where entertainment of an adult or sexual nature is provided
- where there is a strong element of gambling taking place
- where a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal)
- with a known association with drug taking or dealing
- where it is known that unaccompanied children have been allowed access
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

- 10.3 Where the exhibition of films is permitted, the Licensing Authority will expect age restrictions to be complied with in accordance with the British Board of Film Classification's recommendations. The Authority will only consider variations to this general rule in exceptional circumstances.
- 10.4 Where relevant representations have been received, the Authority may impose licence conditions at premises where children will be present for regulated entertainment so that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may also be present at an event as entertainers it will be a requirement for there to be a nominated adult responsible for child performers present at such performances.
- 10.5 The Licensing Authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, where premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is provided. Options which the Authority may consider appropriate to limit access by children may include:
- a limit on the hours when children may be present
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place
 - restricting on the parts of the premises to which children may have access
 - age restrictions (for under 18s)
 - restrictions or exclusions when certain activities are taking place
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)
 - and full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 10.6 In the event of a review of a premises licence or club premises certificate for under age sales of alcohol, the Authority will take strong and appropriate action to ensure that children are protected. This may include, for example, removal of the Designated Premises Supervisor or suspension or revocation of the licence/club premises certificate.
- 10.7 This Authority has designated the Devon Safeguarding Children's Board, as the body competent to advise the Authority on issues relating to the protection of children from harm (see Appendix B for contact details).

11. DRUGS/ILLEGAL SUBSTANCES

- 11.1 The Licensing Authority recognises that drug use is not something that is experienced by all licensed premises. However, where relevant representations are received, the Licensing Authority may need to impose conditions for that venue in order to reduce the sale and consumption of drugs and to create a safer environment for customers using the premises. The conditions to be imposed in such cases may have regard to the "Safer Clubbing" guidance published by the Home Office. Where the Authority deems such conditions to be appropriate for the promotion of the licensing objectives, it will seek advice from the local Drugs Action Team and the Police.

12. DOOR SUPERVISORS

- 12.1 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed by the Security Industry Authority. The Authority recognises that certain premises, because of the nature of their operation, their capacity, their licensed hours and the licensable activities provided, may require stricter supervision for the purpose of reducing crime and disorder and public nuisance. In such cases, where relevant representations are received, the Authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

- 12.2 The Authority recognises that Door Supervisors have an important function in terms of supervising customers not only inside premises but also outside. Door Supervisors will therefore be expected to take a pro-active role in managing the behaviour of customers outside premises in order to minimise any disturbance and nuisance to nearby residents. Licence holders should ensure in particular that, at closing times, they have sufficient Door Supervisors to effectively control 'surges' of customers leaving premises.
- 12.3 Whenever security operatives are employed at licensed premises to carry out any security function such operatives must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Alcohol Harm Reduction Strategy.

It is a mandatory condition of a Premises Licence that where the licence requires personnel to carry out security activity (e.g. screening of customers, dealing with conflict management, crowd control) such personnel are licensed by the Security Industry Authority. (Licensing Act 2003, s.21)

13 LICENSING OF PUBLIC LAND

- 13.1 The Authority recognises that land owned by the local authority and by other public bodies often lends itself to the performance of public events which involve one or more licensable activities. In the interests of promoting cultural richness and diversity within the area, the Authority will encourage the local authority to apply for such licences for the benefit of the community where it is satisfied that they will not have a negative impact on the licensing objectives.
- 13.2 In order to help event organisers and touring entertainment providers plan where licensable activities will be carried out the DCMS maintain a Register of Licensed Public Spaces in England and Wales (www.culture.gov.uk). When a licence is issued for public land, Mid Devon District Council will provide those areas licensed and the activities to which the licence relates to the DCMS for use in this register.

The Government encourages local authorities to consider establishing a policy of seeking premises licences for public spaces they own e.g. public parks, promenades, community buildings etc. Where such licences are in force, this removes the burden on individuals and community organisations of applying for a premises licence or giving a Temporary Event Notice.

14 VESSELS

- 14.1 The Licensing Authority will give particular weight to the views of the British Waterways Board when considering applications for premises licences in respect of vessels. Where, in the opinion of the Licensing Authority, if its discretion is engaged and any of the four objectives are undermined and cannot be resolved through the imposition of conditions, the application will be refused.

15. TEMPORARY ACTIVITIES

- 15.1 The Licensing Act 2003 makes provision for regulating temporary events involving the supply of alcohol, the provision of regulated entertainment or the provision of late night refreshment at a premises which are not authorised by a premises licence or club premises certificate. This provision can also be used by holders of premises licences and club premises certificates to authorise extensions to their permitted hours.
- 15.2 The system of temporary activities is intended as a light touch process and, as such, the carrying on of licensable activities does not have to be authorised by way of an application. Instead, a person wishing to hold an event at which it is proposed to carry out such activities is required to notify the licensing authority by way of a Temporary Event Notice (TEN).
- 15.3 A number of limitations are imposed on the use of TENs by the Act. The limitations apply to:

- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
- the number of times a TEN may be given for any particular premises (12 times in a calendar year);
- the maximum duration of an event authorised by a TEN is 168 hours;
- a maximum total duration of the events authorised by TENS in relation to individual premises (21 days in a calendar year);
- the maximum number of people attending at any one time (fewer than 500); and
- the minimum period between events authorised under separate TENS in relation to the same premises (not including withdrawn TENS) by the same premises user (24 hours).

- 15.4 A TEN can be used for any 'premises'. This could be a building, a room in a building, a vehicle, a marquee, an open field etc. A TEN may only be given by an individual (aged over 18) and not by an organisation or club or business.
- 15.5 There are two types of TEN; a standard TEN and a late TEN. A standard TEN must be given no later than ten working days before the event to which it relates; a late TEN must be given not before nine and no later than five working days before the event. (NB. Notice periods do not include the day the Notice is given to the licensing authority or the day of the event. If this minimum period of notice is not given, the Authority will reject the Notice and the licensable activities may not take place.)
- 15.6 The police and Mid Devon Council's Environmental Health Services ('relevant persons') may object to a TEN. If the Authority receives an objection notice from a relevant person that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The Authority must consider any objection on the basis of the licensing objectives and decide whether the event should go ahead. Relevant persons may also intervene by agreeing a modification of the proposed arrangements directly with the person giving the TEN.
- 15.7 Where an objection is received, the Authority may impose conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate with conditions and when an objection notice has been received from a relevant person. The Authority may only otherwise intervene if the statutory permitted limits on TENS would be exceeded.
- 15.8 When giving a TEN, the premises user should consider the promotion of the four licensing objectives. Organisers are strongly advised to contact relevant persons for advice at the earliest opportunity when planning events. Planning at an early stage may well minimise or avoid potential objections. Mid Devon District Council has a guidance document on organising safe events that is available on the website <http://www.middevon.gov.uk/index.aspx?articleid=3934>. This is the TEN webpage and has other information about TENS including the option to make an online application.
- 15.9 Where the TEN includes the supply of alcohol, the responsibility for the supply rests with the person giving the Notice (the 'premises user'). The premises user does not have to be on the premises for the entire duration of the event but will be liable for any offences committed.

16. LATE NIGHT LEVY

- 16.1 The Late Night Levy is a power conferred on Licensing Authorities by Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This provision came into force on 31 October 2012 and enables a Licensing Authority to charge a levy on premises in the Authority's area which are licensed to sell alcohol late at night as a means of raising a financial contribution towards the costs of policing the late-night economy. The levy applies to the whole of the Licensing Authority's area.
- 16.2 The levy will be payable by the holder of any premises licence or club premises certificate in the Authority's area which authorises the sale or supply of alcohol on any days during the 'late night supply period'. This is a period beginning at or after midnight and ending on or before 6am.

- 16.3 The decision to introduce the levy is for the Licensing Authority to make. Before making any such decision, the Licensing Authority must consult the Chief Officer of Police, the Police and Crime Commissioner and the holders of relevant late night licences or certificates. Local residents can use existing channels and forums to put forward views and call for the implementation of the levy in their area if they wish to do so.
- 16.5 The Licensing Authority must pay at least 70% of the net levy revenue to the police. A Licensing Authority can deduct the costs it incurs in connection with the introduction, administration, collection, variation and enforcement of the levy prior to the levy revenue being apportioned between the police and Licensing Authority. The Licensing Authority has discretion to exempt certain premises - prescribed by regulations - from the levy and to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.
- 16.6 At the time of preparing this Policy, this Authority has taken no decision and has no plans to implement the Late Night Levy but is aware that it is a power which it may use if it considers it appropriate for the promotion of the licensing objectives. Initial views are sought from stakeholders during this consultation.
- 16.7 The Authority will review the need for a Late Night Levy at least every five years in conjunction with the review of this policy. The Authority will, however, consider the introduction of a Late Night Levy at any time if circumstances change and evidence supports this course of action.

17. EARLY MORNING RESTRICTION ORDERS

- 17.1 Early Morning Restriction Orders (EMROs) are a new licensing power conferred on Licensing Authorities by s.119 of the Police Reform and Social Responsibility Act and came into force on 31 October 2012. This power enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of midnight and 6 a.m. in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 17.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which are not directly attributable to specific premises. Unlike the Late Night Levy there are no powers to charge a fee in connection with making an EMRO.
- 17.3 The decision to implement an EMRO must be evidence based. Evidence will be considered from partners including Responsible Authorities and the East and Mid Devon Community Safety Partnership alongside the Authority's own evidence to determine whether an EMRO is appropriate for the promotion of the licensing objectives.
- 17.4 Measures that may be considered in advance of making an EMRO include:
- introducing a Cumulative Impact Policy
 - reviewing licences of specific problem premises
 - encouraging the creation of business-led practice schemes in the area and
 - the other mechanisms designed for controlling cumulative impact see 8.4
 - encouraging licence or certificate holders to make variations with respect of hours for licensable activities.
- 17.5 The only exemptions relating to EMROs are premises which are authorised to sell alcohol between midnight and 6.00 am on New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 17.6 At the time of preparing this Policy, this Authority has taken no decision to introduce an EMRO but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives. Initial views are sought from stakeholders during this consultation.

- 17.7 The Authority will review the need for an EMRO at least every five years in conjunction with the review of this policy. The Authority will consider the introduction of an EMRO at any time if circumstances change and evidence supports this course of action.

18. FEES

- 18.1 Following amendments that came into force in October 2012 the Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.
- 18.2 It is the practice of this Authority to issue an invoice for annual maintenance fee approximately a month before the due date of an annual maintenance fee. Non-payment will then result in a suspension notice being served. Regulations state that the premises licence or club premises certificate holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place. Our procedure, which was approved by the Licensing Committee on 18 February 2013, gives five working days' notice prior to suspension of the licence, following the due date unless the licence holder has given notice that there is a dispute over the fee or there is an administrative error in which case there is 21 days 'grace' for such matters to be resolved prior to the five days' notice of suspension.
- 18.3 The Authority will not generally refund fees for licence applications, particularly where the Authority has incurred costs in accepting and processing applications. Each case will, however, be decided on merit.
- 18.4 The Police Reform and Social Responsibility Act 2012 also empowered Licensing Authorities to set fees under the Licensing Act 2003 instead of the current prescribed fees, but, at the time of consulting on this Policy, we are still awaiting the secondary legislation that will set out how we will be allowed to do that. The secondary legislation has been delayed until summer 2014 but when we do have this power we will seek to set our fees fairly and only charge what we are allowed. As part of our general licensing duties this team already time records to help set other fees and we will use this information to assist the fee setting process.

19. EQUALITY AND HUMAN RIGHTS ISSUES

- 19.1 In developing this policy, the Authority recognises its responsibilities under the Equality Act 2010, to consider the need to eliminate unlawful discrimination and to promote equal opportunities and any equality issues will be addressed in an Equality Impact and Needs Assessment.
- 19.2 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a convention right. The Authority will have regard to the Human Rights Act when exercising its licensing functions.
- 19.3 Conditions relating to disabled access will not be attached to licences, as this would duplicate existing statutory requirements. The Authority therefore takes this opportunity to remind holders of premises licences and club premises certificates of their duties under the Equality Act 2010.

20. FURTHER INFORMATION

- 20.1 Contact details of the Licensing Authority and Responsible Authorities are given in Appendix B.
- 20.2 Further information and guidance on the Act can be viewed on the Authority's website at www.middevon.gov.uk/licensing. Application forms can be downloaded from the site or electronic applications submitted online.
- 20.3 Further information on alcohol and entertainment licensing is available on the Home Office website at <https://www.gov.uk/government/organisations/home-office> and on the website for the Department of Culture, Media and Sport at <https://www.gov.uk/government/organisations/department-for-culture-media-sport>.

Appendix A
MID DEVON DISTRICT COUNCIL
Licensing Committee
Procedure for Hearings

1. Introduction

The hearing will be conducted in accordance with The Licensing Act 2003 (Hearings) Regulations (2005). The Sub-Committee will follow the procedure set out below at all hearings under the Licensing Act (2003)

2 The Officers

- 2.1 Each Sub-Committee will comprise of three Councillors of Mid Devon District Council who will hear applications made under the Licensing Act (2003)
- 2.2 The Committee will be attended by a:
 - (a) A Licensing Officer
 - (b) Representative of Legal Services
 - (c) Representative of Member Services
- 2.3 The role of the Licensing Officer will be to introduce the application, outline the relevant facts and any issues involved through the presentation of their report
- 2.4 The role of the representative of Legal Services will be to deal with any questions of law, matters of practice and procedure and where appropriate assist the Sub-Committee in formulating the reasons for its decision. They may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.
- 2.5 The role of the representative of Member Services will be to make a record of the proceedings both by way of notes of the evidence given and a minute of the decision reached, inclusive of the reasons for the decision.

3. Procedures at the hearing

- 3.1 The Chair of the hearing will introduce the members of the Sub-Committee and the Officers present at the hearing.
- 3.2 The Chair will introduce the matter to be resolved, and will ask the parties present at the hearing to introduce themselves.
- 3.3 The Chair will outline the procedure to be followed at the hearing.
- 3.4 Upon the failure of a party to attend the hearing, the Sub-Committee will decide whether to adjourn the matter, or proceed in the party's absence. If the decision is taken to proceed, the party's written application or representation will be taken into account.
- 3.5 The Sub-Committee will consider whether the hearing should be held in public or private session. The hearing will usually be heard in public except where the Sub-Committee decide that it is in the public interest for the public to be excluded from a particular hearing, or part thereof or where the Sub-Committee make a resolution that the public and the press be excluded from the hearing, on the basis that either confidential or exempt information is likely to be disclosed.

- 3.6 The Sub-Committee will decide whether to grant any written request made by a party for permission to call a witness at the hearing. Any request may not be unreasonably withheld.
- 3.7 The Sub-Committee will consider any requests to present any new evidence or information that has not already been disclosed to all the parties and the Sub-Committee. The general rule is that the Sub-Committee must not consider information or evidence that was not disclosed to it or to the other parties prior to the hearing taking place, although all parties at the hearing can agree to that extra information being considered on the day of the hearing.
- 3.8 The Sub-Committee will consider any requests to call witnesses and will make a decision on such requests.
- 3.9 The Sub-Committee will consider any requests for permission to ask questions of other parties. The Sub-Committee will consider whether asking questions is required in order for it to consider the case properly. If permission is given to one party to ask questions, it will usually be given to all other parties at the hearing.
- 3.10 The Sub-Committee will decide the length of time that each party will be allowed to present their case.
- 3.11 The hearing will take the form of a discussion to be led by the Sub-committee
- 3.12 The Chair will ask the Licensing Officer to outline the matter before the Sub-Committee.
- 3.13 Where the written evidence or information provided by the applicant, responsible authorities and/or interested parties have raised legal issues or submissions, the Chair may request that any legal representatives present at the hearing and the legal representative of Legal Services address the Sub-Committee on the legal points raised.
- 3.14 The Applicant will make their case first either personally or through a representative. The Applicant may give further information in support of the application, but only in response to a point upon which the authority has given notice that it will want clarification.
- 3.15 Documentary evidence or other information produced by the Applicant may be considered, provided this has been produced prior to the hearing, or if not, with the consent of all the other parties. It may be necessary in some circumstances for the hearing to be put back until later in the day so that parties may consider additional information which is produced at the hearing.
- 3.16 The Applicant may then be questioned by members of the Sub-Committee. Questions will either be directed through the Chairman, or put directly by members with the agreement of the Chairman.
- 3.17 The Applicant may call any witnesses in support of his application, if this has been permitted by the Sub-Committee. The witnesses will address the Sub-Committee, which may then ask any question of the witnesses.
- 3.18 When the Applicant has completed the presentation of their case, the representatives of any responsible authorities who have made relevant representations address the Sub-Committee, and may be questioned by members of the Sub-Committee.
- 3.19 Witnesses may be called by the responsible authorities where permitted by the Sub-Committee. Documentary or other information produced on behalf of the responsible authority may be considered
- 3.20 Thereafter, other persons address the hearing, and they may be questioned by members of the Sub-Committee.

- 3.21 Witnesses who are permitted to be called in support of the submissions of the interested parties are then questioned by members of the Sub-Committee. Documentary or other information produced on behalf of an interested party may be considered
- 3.22 Where the Applicant is a responsible authority or an interested party the licence holder will present their case after the applicant followed by any responsible authorities and then interested parties.
- 3.23 After the conclusion of the evidence, each party may sum up their case, by addressing the sub-committee in the order in which they presented their case.
- 3.24 The Sub-Committee will either leave the hearing room to deliberate or ask all parties to leave the room.
- 3.25 Depending on the nature of the application, a determination of the case may be made either at the conclusion of the hearing or within 5 working days.
- 3.26 Where the case is determined at the end of the hearing the Chairman will read the Sub-Committee's determination aloud together with the terms of the decision made and the reasons for such decision.
- 3.27 The Chairman will thank everyone for their contributions, and closes the meeting, or moves on to the next item on the agenda.

4. After the Hearing

- 4.1 Once the meeting of the Sub-Committee has been concluded, Member Services will prepare minutes of the hearings.
- 4.2 The Licensing Officer will issue a notice to all of the parties involved (whether present at the hearing or not), outlining the decision of the Sub-Committee.

APPENDIX B

Responsible Authority Contacts

Licensing Authority

Mid Devon District Council

Licensing Section
Phoenix House
Phoenix Lane
Tiverton
Devon EX16 6PP
Telephone: 01884 244617/8/9
Email: licensing@middevon.gov.uk
www.middevon.gov.uk

Devon & Cornwall Constabulary

Licensing Department (East)
Devon & Cornwall Police HQ
Middlemoor
Exeter
Devon Tel: 01392 452225
EX2 7HQ Fax: 01392 452447
licensingeast@devonandcornwall.pnn.police.uk

Devon Fire & Rescue Service

East Division
Agriculture House
Pynes Hill
Rydon Lane
Exeter
Devon EX2 5AZ
Telephone: 01392 266833
<http://www.devfire.gov.uk/>
E-mail: tstreat@dsfire.gov.uk

Devon County Council - Local Safeguarding Children's Board

Follaton House
Plymouth Road
Totnes
TQ9 5RS
Telephone: 01392 383000
http://www.devon.gov.uk/child_protection
Email: cpchecks@devon.gcsx.gov.uk

Devon Trading Standards (Weights and Measures)

Trading Standards Service
County Hall
Topsham Road
Exeter
Devon EX2 4QH
Tel: 01392 381381
Email: tsslicensingact2003@devon.gov.uk

Health and Safety Executive

Ballard House
 West Hoe Road
 Plymouth
 Devon PL1 1BL
 Telephone: 01852 226024
<http://www.hse.gov.uk/contact/index.htm>
 Tel: 08701 545500
 E-mail: formsadmin.bristol@hse.gsi.gov.uk

Generally the Health & Safety Enforcing Authority will be the Council's Environmental Health Team. Schools and local government premises will come under the HSE.

Mid Devon District Council**Environmental Health Team (nuisance and public health; health & safety)**

Phoenix House
 Phoenix Lane
 Tiverton
 Devon EX16 6PP
<http://www.middevon.gov.uk>
 Telephone: 01884 244600
 Email: ehadmin@middevon.gov.uk

Mid Devon District Council Planning Services

Phoenix House
 Phoenix Lane
 Tiverton
 Devon EX16 6PP
<http://www.middevon.gov.uk>
 Telephone: 01884 255255
 Email: devcon@middevon.gov.uk

Public Health Devon

Devon County Council
 Room 255
 County Hall
 Topsham Road
 Exeter
 Devon
 EX2 4QD

Tel. 01392 386388
 Email: alcohollicensing-mailbox@devon.gov.uk

APPENDIX C – GLOSSARY OF TERMS

Alcohol, authorised sale of

- it is a mandatory condition of a Premises Licence that every supply of alcohol must be made or authorised by a person who holds a Personal Licence.

Alcohol, retail sale of

defined by the Act (s.192) as any sale of alcohol other than to:

- a trader for the purposes of his trade
 - a club which holds a Club premises certificate for the purposes of the Club
 - the holder of a Personal Licence for the purpose of making sales authorised by a Premises Licence
 - the holder of a Premises licence for the purpose of making sales authorised by that licence, or to the premises user in relation to a Temporary Event Notice for the purpose of making sales authorised by that Notice.
- and which is made for consumption off the premises.

Appeal

- the Act provides for right of appeal to the Magistrates' Court against a decision of the Licensing Authority. Appeals must be brought within 21 days of notification of the Authority's decision.

Authorised Person

- an officer of the Licensing Authority who has been authorised by the Authority – generally for the purposes of inspection and/or enforcement – under the provisions of the Licensing Act 2003;
- an inspector appointed under s.18 of the Health and Safety at Work Act 1974;
- an officer of the local authority exercising a statutory function in relation to pollution control or harm to human health;
- in relation to a vessel, an inspector or surveyor of ships appointed under s.256 of the Merchant Shipping Act 1995;
- a person prescribed under s.13 (2) of the Act.

British Board of Film Classification

- the body responsible for determining the age rating of films screened in the UK. Current ratings are:
 - U – generally suitable for audiences over 4 years of age
 - PG – suitable for general viewing but some scenes may be unsuitable for young children
 - 12A – suitable for children aged 12 years and over
 - 18 – suitable only for adults

Club Premises Certificate

- A certificate authorising the use of premises by a qualifying club for one or more club activities.

Designated Premises Supervisor

- The individual specified in the premises licence as the premises supervisor. - in relation to premises selling alcohol, the person (who must hold a Personal Licence) who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself.

Hearing

- a meeting of a Licensing Sub Committee – generally held in public - to determine an application for a Premises Licence where relevant representations have been received from a Responsible Authority or an interested party. The hearing will be held before a licensing 'panel' comprising three members of the Licensing Committee who will hear evidence from the applicant and from the objectors.

Hot Food or Hot Drink

- food or drink supplied on or from any premises is "hot" for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:
 - (i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or
 - (ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

Late Night Refreshment

- the provision, between 11 pm and 5 am, of hot food or hot drink, to members of the public or a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am, or-at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Licensing Committee

- The committee established by the Licensing Authority to discharge the licensing functions of the Authority.

Licensing Hours

- The hours during which authorised licensable activities take place.

Licensing Qualification

- A qualification accredited or certified by the Secretary of State.

Operating Schedule

- a document containing a statement including the following matters:
 - the relevant licensable activities
 - the times at which the licensable activities are to take place and any other times when premises are open to the public
 - information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
 - where the licensable activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
 - the steps being taken to promote the licensing objectives.

Personal Licence

- A licence which authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence.

Premises Licence

- A licence authorising premises to be used for one or more licensable activities.

Qualifying Club

- in order to be a 'qualifying club' for the purposes of the Act, a club must meet the following criteria:
 - a person must not be admitted to membership or enjoy the privileges of membership without a period of at least 48 hours between their application for membership and their admission,
 - the club must be established in good faith as club, and
 - the club must have at least 25 members.

(NB. A proprietary club (i.e. a commercial club which is established and operated for profit) cannot be regarded as a 'qualifying club' for the purposes of the Licensing Act 2003.)

Relevant Persons

- References to relevant persons in relation to any premises are references to the following:
 - a) the Chief Officer of Police for any police area in which the premises are situated,
 - b) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health (i.e. the Council's Environmental Protection and Health and Safety Teams).

Responsible Authorities

- the public bodies that must be fully notified of applications and that are entitled to make relevant representations to the licensing authority in relation to the grant, variation, minor variation or review of a premises licence. (See Appendix B)

Temporary Event Notice

- a Notice authorising a permitted temporary activity involving one or more licensable activities subject to certain conditions and limitations.

Zoning - The adoption of fixed terminal hours in designated areas.

CONSULTATION OF DRAFT OF THIRD REVIEW OF LICENSING POLICY – RESPONSES RECEIVED

19 August 2013 to 17 November 2013

Paragraph	Received From	Comment Made	Response to Comment	Recommendation
4.5.5	Devon and Cornwall Constabulary	Where 'premises' are mentioned in relation to exempt live music it should say 'workplaces'	Agree	Amend policy accordingly
16 – Late Night Levy	Crediton Town Council	Crediton Town Council is concerned to note that there appears to be more police on the streets after 11pm at the weekends than at any other time of the week. To this end it was resolved to urge Mid Devon District Council to increase the cost of licences in order to offset some of the costs of extra policing in the late hours.	<p>Many thanks for sending me your Council's response to our consultation on the licensing policy. Unfortunately the fees charged for these licences are for the costs of Mid Devon District Council and do not relate to the costs of policing. The only way for us to be able to raise a charge that would go the police would be if Mid Devon was to introduce a Late Night Levy. S.16 of our draft policy sets out what is involved in raising such a levy and that would allow 70% of what was raised to go to the police. There is, however, no provision within the legislation to require that levy to go towards policing of the late night economy, let alone specifying particular towns.</p> <p>Consultees are asked for their views on whether a Late Night Levy would be appropriate for Mid Devon but, bearing in mind it would apply to the</p>	<p>Bear in mind that Late Night Levy is available if the late night economy develops problems to which it might be seen as part of the solution but do not amend policy.</p>

5.3.1	Willand Parish Council	<p>That the last two sentences should be removed – The Authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The Authority will give reasons for any such departure from policy.</p>	<p>whole district, it is doubtful that there is evidence that would support the imposition of one. In the context of Mid Devon it could be seen as a sledge hammer to crack a nut. If Mid Devon did decide it would need a Late Night Levy it does involve an extensive consultation process and would need to start with evidence from the police that we have the kind of problems that point to the levy as a potential solution. It would be a considerable added cost for such businesses and the Licensing Act already gives powers to deal with problem premises without the need to bring in the levy. This would be the only way of getting additional funding for the police but is probably not a route that would be right for Mid Devon unless, of course, there are changes for the worse throughout the district.</p>	<p>Do not amend policy.</p>
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			<p>policies and set out what will usually happen but all policies may be departed from if there are good reasons, and those reasons would need to be set out. Accordingly, I will be recommending to the Licensing Committee that they do not make that amendment when they meet on 5 December to discuss the consultation results and adopt a final version to put the full Council on 18 December.</p>	
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