

Licensing Committee

Friday, 28 June 2024 at 10.30 am
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Friday, 6 December 2024 at 10.30 am

Please Note: This meeting will take place at Phoenix House and members of the public and press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

The meeting will be hybrid and an audio recording made and published on the website after the meeting.

[Click here to join the meeting](#)

Meeting ID: 327 547 824 606

Passcode: ij6fSx

Membership

J Buczkowski
J Cairney
S Chenore
A Cuddy
D Broom
F J Colthorpe
L J Cruwys
J M Downes
M Jenkins
S Keable
L G J Kennedy
F W Letch

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **ELECTION OF CHAIR**
To elect a Chair of the Licensing Committee for the municipal year 2024/2025.
- 2 **ELECTION OF VICE-CHAIR**
To elect a Vice-Chair of the Licensing Committee for the municipal year 2024/2025.
- 3 **START TIME OF MEETINGS**
To agree a start time for the Licensing Committee for the municipal year 2024/2025.
- 4 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute Members (if any).
- 5 **PUBLIC QUESTION TIME**
To receive any questions from members of the public and replies thereto.
- 6 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**
To record any interests on agenda matters.
- 7 **MINUTES OF THE LAST MEETING** (*Pages 5 - 6*)
To consider whether to approve the minutes as a correct record of the meeting held on 1st December 2023.
- 8 **LICENSING ACT POLICY REVIEW** (*Pages 7 - 86*)
The Council, as the Licensing Authority, must adopt a statement of licensing policy (the 'policy') that sets out how it carries out its duties under the Licensing Act 2003 (the 'Act'). That policy must be reviewed every five years and this report considers the next review of this document.
- 9 **LICENSING UPDATE REPORT** (*Pages 87 - 92*)
To provide the Committee with an update on Licensing Act 2003 activity undertaken by the Licensing Team in the second half of 2023/24.

To provide an overview of legislative and guidance changes and make recommendations where these have an impact on service delivery.

Guidance notes for meetings of Mid Devon District Council

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Teams.

If the Council experience technology difficulties at a committee meeting the Chairman may make the decision to continue the meeting 'in-person' only to conclude the business on the agenda.

1. Inspection of Papers

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at Committee@middevon.gov.uk

They can also be accessed via the council's website [Click Here](#)

Printed agendas can also be viewed in reception at the Council offices at Phoenix House, Phoenix Lane, Tiverton, EX16 6PP.

2. Members' Code of Conduct requirements

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership.

The Code of Conduct can be [viewed here](#):

3. Minutes of the Meeting

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting. Minutes of meetings are not verbatim.

4. Public Question Time

Residents, electors or business rate payers of the District wishing to raise a question and/or statement under public question time are asked to provide their written questions to the Democratic Services team by 5pm three clear working days before the meeting to ensure that a response can be provided at the meeting. You will be invited to ask your question and or statement at the meeting and will receive the answer prior to, or as part of, the debate on that item. Alternatively, if you are content to receive an answer after the item has been debated, you can register to speak by emailing your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. You will be invited to speak at the meeting and will receive a written response within 10 clear working days following the meeting.

Notification in this way will ensure the meeting runs as smoothly as possible

5. Meeting Etiquette for participants

- Only speak when invited to do so by the Chair.
- If you're referring to a specific page, mention the page number.

For those joining the meeting virtually:

- Mute your microphone when you are not talking.
- Switch off your camera if you are not speaking.
- Speak clearly (if you are not using camera then please state your name)
- Switch off your camera and microphone after you have spoken.
- There is a facility in Microsoft Teams under the ellipsis button called "turn on live captions" which provides subtitles on the screen.

6. Exclusion of Press & Public

When considering an item on the agenda, the Committee may consider it appropriate to pass a resolution under Section 100A (4) Schedule 12A of the Local Government Act 1972 that the press and public be excluded from the meeting on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, as defined under the terms of the Act. If there are members of the public and press listening to the open part of the meeting, then the Democratic Services Officer will, at the appropriate time, ask participants to leave the meeting when any exempt or confidential information is about to be discussed. They will be invited to return as soon as the meeting returns to open session.

7. Recording of meetings

All media, including radio and TV journalists, and members of the public may attend Council, Cabinet, PDG and Committee meetings (apart from items Media and Social Media Policy - 2023 page 22 where the public is excluded) you can view our Media and Social Media Policy [here](#). They may record, film or use social media before, during or after the meeting, so long as this does not distract from or interfere unduly with the smooth running of the meeting. Anyone proposing to film during the meeting is requested to make this known to the Chairman in advance. The Council also makes audio recordings of meetings which are published on our website [Browse Meetings, 2024 - MIDDEVON.GOV.UK](#).

8. Fire Drill Procedure

If you hear the fire alarm you should leave the building by the marked fire exits, follow the direction signs and assemble at the master point outside the entrance. Do not use the lifts or the main staircase. You must wait there until directed otherwise by a senior officer. If anybody present is likely to need assistance in exiting the building in the event of an emergency, please ensure you have let a member of Democratic Services know before the meeting begins and arrangements will be made should an emergency occur.

9. WIFI

An open, publicly available Wi-Fi network is normally available for meetings held in the Phoenix Chambers at Phoenix House.

MINUTES of a **MEETING** of the **LICENSING COMMITTEE** held on 1 December 2023 at 10.30 am

Present

Councillors

J Cairney (Chairman)
A Cuddy (Vice Chairman), C Adcock,
D Broom, F J Colthorpe, L J Cruwys,
J M Downes, M Farrell and L G J Kennedy

Apologies

Councillor(s)

J Frost

Also Present

Officer(s):

Deborah Sharpley (Legal Services Solicitor), Harriet Said (Team Leader (Commercial), Public Health), Alan Drake (Specialist Lead (Licensing)) and Angie Howell (Democratic Services Officer)

Councillors

Online

S Chenore, G Westcott

9 APOLOGIES AND SUBSTITUTE MEMBERS (04:23)

Apologies were received from Cllr J Frost and Cllr S Chenore attended as his substitute online.

10 PUBLIC QUESTION TIME (04:43)

There were no members of the public present and no questions were asked.

11 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (05:18)

There were no declarations of interest received.

12 MINUTES OF THE PREVIOUS MEETING (05:44)

The minutes of the 30th June 2023 were **APPROVED** and signed by the Chairman.

13 LICENSING UPDATE REPORT (06:12)

The Committee had before it, and **NOTED**, the Service Update.

The contents of the report were outlined by the Team Leader, Commercial, Public Health and highlighted the following:

- The report provided an overview of the activity carried out by the Licensing Team during the first half of 2023/2024.
- Mid Devon District Council had a total of 406 licensed premises under the Licensing Act 2003. During quarter 1 and 2 of this year the Licensing Team dealt with applications from 10% of the total number of licenced premises in the District.
- The Service had received a large number of Temporary Event Notices (TENs), totalling 225 in first two quarters of the year.
- Discussions had taken place with organisers of the Mid Devon Show, who were looking at the option to apply for a premises licence for the whole site rather than continuing with multiple TENs.
- 15% of the TENS received were for the Mid Devon Show.
- Licensing Officers had conducted 15 inspections of licenced premises resulting from complaints or information received that indicated a non-compliance.
- There had been 1 application considered during the first half of 2023/24 by the Licensing Sub-Committee. The Hearing outcome was removal of the Designated Premises Supervisor (DPS) and a period of suspension during a weekend in October 2023. A new DPS was now in place.
- Due to an amendment in the Statutory Guidance, all new applications had to consider the potential of a terrorist event taking place.
- Following a consultation, the Government had now commenced a number of changes to the late-night levy.
- Provisions in relation to pavement licences in the Business and Planning Act 2022 had been extended by regulations until 30 September 2024.
- A review of the Licensing Policy occurred every five years and this would be coming in the next 12 months.

Consideration was given to:-

- Public safety around spiking drinks and a request from the Committee to invite Top Stoppers to give a presentation at a future meeting.
- The obstruction of pavements and the effect upon people with sight problems when café's place tables on the pavements and businesses place A Frames outside with a request from the Committee for an update on legislation at the next meeting.
- Writing to the premises involved in the application above to confirm the weekend that it closed in October 2023.

Note: * Report previously circulated.

(The meeting ended at 10.59 am)

CHAIRMAN



Report for: Licensing Committee

Date of Meeting: 28 June 2024

Subject: **REVIEW OF THE STATEMENT OF LICENSING POLICY AS REQUIRED BY THE LICENSING ACT 2003**

Cabinet Member: David Wulff, Cabinet Member for Quality (Cost) of Living, Equalities and Public Health

Responsible Officer: Simon Newcombe – Head of Housing and Health

Enclosures: Annex A – Proposed revised policy
Annex B – Updated Hearing Procedures

Summary:

The Council, as the Licensing Authority, must adopt a statement of licensing policy (the 'policy') that sets out how it carries out its duties under the Licensing Act 2003 (the 'Act'). That policy must be reviewed every five years and this report considers the next review of this document.

Recommendation(s):

- 1. It is recommended that the Licensing Committee agree to consult on the proposed revised policy (attached as Annex A).**
- 2. It is recommended that the Licensing Committee agree the updated Hearing Procedures (attached as Annex B).**

1 Introduction

- 1.1 The Act requires this Council, as the Licensing Authority, to produce a policy that sets out how it will carry out its duties under the Act.
- 1.2 The existing licensing policy has been updated with proposed tracked changes and is attached as Annex A. No significant changes are being proposed as part of this review. There is mainly tidying up of terminology and definitions.

1.3 The Hearing Procedures have also be updated to reflect minor details including change of Member Services to Democratic Services and points of clarity in the process. These changes are highlighted within the document attached as Annex B.

2 Consultation

2.1 The Act requires the Licensing Authority to consult with Responsible Authorities and those it considers to be representative of licence and certificate holders, businesses and residents.

2.2 We are proposing to consult with the following parties:

- The Chief Officer of Devon & Cornwall Police
- Devon and Somerset Fire and Rescue Service
- Director of Public Health
- Devon County Council - Local Safeguarding Children's Board
- Weights and Measures (Trading Standards)
- Public Health (Mid Devon)
- Community Safety Partnership (Mid Devon)
- Town and Parish Councils within Mid Devon
- Health and Safety Executive
- The Council's - Environmental Health Service
- The Council's - Planning Service
- Home Office
- Persons / bodies representative of local premises licence holders
- Persons / bodies representative of local club premises certificate holders
- Persons / bodies representative of local personal licence holders
- Persons / bodies representative of local businesses and residents in the area

2.3 The consultation will be published via the Let's Talk Mid Devon platform via the Council's website.

2.4 It is not felt that any of the proposed changes to the policy are major and as a result, a 6 week consultation period is proposed. This would run from 8 July until 18 August 2024.

3 Proposed changes to the policy

3.1 What follows is a brief summary of the main amendments to the policy. There are other minor changes to the policy but it is not felt necessary to document them all here as they are minor in nature (for example, updating a link or providing a bit more information on a specific point).

Removal of Appendix C (Pool of Conditions) and Appendix D (Code of good practice for licensed premises)

3.2 The existing policy included these two documents as appendices but on reflection, it is felt they are better as standalone documents as they do not relate

to the policy directly but are helpful guidance for the applicants and licence holders.

- 3.3 This will not have an impact on their use or availability as will still intend to make them available online. However, removing them as appendices ensures any updates to them can be done efficiently and without having to update multiple documents.

Additional information on non-licensable activities (page 18)

- 3.4 Since the introduction of the Act there has been a significant change in the licensing of entertainment. In general, it is now possible for more forms of entertainment to take place without the need for a licence.
- 3.4 We wanted to add a brief note in the updated policy acknowledging that issues or concerns as a result of 'non-licensable' activities (including music in certain scenarios) can be addressed either via Environmental Health or Licensing, or both.

Additional information on large scale public events and the Safety Advisory Group (SAG) (page 24)

- 3.5 This has been added to highlight the importance of the SAG, especially with regards to larger events that have the potential to undermine the licensing objectives if not organised and run properly. This section encourages event organisers to engage in this process at an early stage and also highlights the potential need for a premises licence, depending on the number of people due to attend the event.

Prevention of crime and disorder (page 48)

- 3.6 In accordance with the LGA guidance note on drink spiking prevention (2022), we have added reference to spiking and sexual harassment. These items have been given as examples of the types of things an applicant should consider in relation to their premises.
- 3.7 The LGA guidance note also suggests that councils should consider referring to relevant training packages in the policy. We intend to update the Code of good practice for licensed premises with information about this as it will give us the flexibility to update details as and when required. An example of such a scheme that we will look to include information about is 'Ask For Angela' - <https://askforangela.co.uk/>.

Safeguarding (page 50)

- 3.8 This section on safeguarding is added to ensure applicants and licence holders consider the potential safeguarding issues their particular application or business may present.
- 3.9 A wide array of premises are licensed and it is felt appropriate to recommend that those that provide entertainment to children and youths complete basic

training in safeguarding - such training is readily available online. We have also highlighted the potential requirement for a DBS check.

4 Next steps

- 4.1 If agreed, the Licensing Team will arrange for, and conduct the proposed consultation.
- 4.2 The results of this will be presented to the Licensing Committee later in the year with a view to them recommending to Full Council the adoption of an updated policy.

Financial Implications: None that are not contained within existing resources.

Legal Implications: The Council is required to adopt a licensing policy.

Risk Assessment: If the licensing policy is not properly adopted it could be subject to legal challenge and therefore, possible reputational damage for the Council.

Impact on Climate Change: There is no direct impact on climate change as a result of this report.

Equalities Impact Assessment: No equality issues identified for this report.

Relationship to Corporate Plan: This report links directly to the Licensing Authority functions of the Council with the primary aim of protecting public safety and ensuring the well-being of our community and licensed service users. It therefore contributes to the priority of Community within the Corporate Plan.

Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 19 June 2024

Statutory Officer: Maria de Leburne
Agreed on behalf of the Monitoring Officer
Date: 19 June 2024

Chief Officer: Simon Newcombe
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 24 May 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 19 June 2024

Cabinet member notified: Yes

Contact for more Information:

Contact: Tom Keating, Specialist Lead (Licensing), Public Health or Simon Newcombe, Head of Housing and Health

Email: tkeating@middevon.gov.uk / snewcombe@middevon.gov.uk

Telephone: 01884 255255

Background Papers:

- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Section 182 Guidance - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- MDDC Statement of Licensing Policy - <https://www.middevon.gov.uk/business/licensing/new-statement-of-licensing-policy-licensing-act-2003/>

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Statement of Licensing Policy Licensing Act 2003

Date of implementation: TBC

**Mid Devon District Council
Phoenix House, Phoenix Lane
Tiverton, Devon, EX16 6PP**

Tel: 01884 255255

<https://new.middevon.gov.uk/>

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1. Introduction

- 1.1 Mid Devon District Council ('the Council') has a duty to administer and enforce the Licensing Act 2003 (the "Act") which gives local authorities responsibility for licensing the sale and supply of alcohol, regulated entertainment and the provision of late night refreshment.
- 1.2 The Act requires that licensing authorities publish a Statement of Licensing Policy for their area to guide them when considering licence applications and controlling licensed premises. This Statement of Licensing Policy is produced in response to this requirement and applies to all applications, notices, representations and requests we receive under the Act. The Policy also aims to provide guidance to applicants, objectors and interested residents, businesses and the wider community about the approach the Council will take as the Licensing Authority. It has been the subject of consultation with local bodies, organisations and residents. A list of consultees is provided within the Policy itself.
- 1.3 The Council's original Policy was published in 2005 and was subsequently reviewed every 3 years, as required by the legislation at that time. Since then changes to the Act mean that licensing authorities are now required to review their statements of Licensing Policy every 5 years. This is the fifth review of this Policy by the Council.
- 1.4 This Policy Statement will come into force on TBC.
- 1.5 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the latest version of Home Office Guidance issued under section 182 of the Act.

2. Background

Purpose and Scope of the Licensing Policy

- 2.1 This Statement of Licensing Policy is produced in response to the requirements of Section 5 of the Act. It aims to ensure a consistent approach to licensing within Mid Devon. The Policy will assist officers and members in reaching a decision on a particular application or licence, setting out those matters that will normally be taken into account. In addition, the Policy seeks to provide clarity for applicants, licence holders, residents, and businesses to enable them to understand the objectives being promoted and the matters that will be considered when determining licences.
- 2.2 In carrying out its licensing function the Licensing Authority must promote the following four licensing objectives:
- The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
 - The protection of children from harm
- 2.3 For the purposes of this Policy, the Council is the Licensing Authority and is referred to as the “Licensing Authority”, unless otherwise stated.
- 2.4 This Policy covers a wide range of licensable activities under the Act and these are as follows:
- Retail sale of alcohol
 - Supply of alcohol to club members
 - Provision of entertainment to the public or club members or with a view to making profit, including raising money for charity, where the entertainment involves:
 - A theatrical performance
 - Film exhibition

- Indoor sporting event
 - Boxing or Wrestling
 - Live music
 - Recorded music
 - A performance of dance
- Supply of hot food or drink from premises between 23:00 and 05:00 (the provision of late night refreshment)
- 2.5 The scope of the Policy includes new applications, variations (including transfers and changes of designated premises supervisors), notices and existing licences. Nothing in this Policy will prevent a person from making an application under the Act and each application will be determined on its own individual merits.
- 2.6 This Policy sets out the vision for the regulation of licensed premises throughout Mid Devon and outlines the standards expected to ensure the promotion of the four licensing objectives.
- 2.7 The Licensing Authority may depart from the Policy if it considers that doing so would benefit the promotion of the licensing objectives. Reasons will be given for any such departure from the Policy. However, it is expected that any such departure would be likely only in exceptional circumstances.

Profile of Mid Devon

- 2.8 The Council is a rural council, lying inland within Devon. The Council covers an area of 352 square miles (913 square kilometres). The district boasts a high quality natural environment, bordering Dartmoor and Exmoor National Parks and the Blackdown Hills Area of Outstanding Natural Beauty.
- 2.9 With an approximate population of 82,800, the district is one of the most sparsely populated local authorities within England and Wales, comprising approximately 35,600 households.
- 2.10 50% of the population reside across the three main market towns in the district. Tiverton is the largest of these with a population of approximately 22,291 and Cullompton and Crediton are the other two, having populations of approximately 10,492 and 8,070 respectively.

2.11 The Licensing Authority has responsibility for regulating a range of premises and other licences including (not exhaustive):

- Personal Licences
- Premises Licence (with alcohol)
- Premises Licences (without alcohol)
- Club Premises Certificates (with alcohol)
- temporary event notices



Consultation and Policy Timeline

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

- The Chief Officer of Police
- Devon and Somerset Fire and Rescue Service
- Director of Public Health (Devon DAAT)

- Devon County Council - Local Safeguarding Children's Board
- Heart of the South West Trading Standards
- Public Health (Mid Devon)
- Community Safety Partnership (Mid Devon)
- Town and Parish Councils within Mid Devon
- Health and Safety Executive
- Mid Devon District Council - Environmental Health Services
- Mid Devon District Council - Planning Services
- Home Office
- Persons / bodies representative of local premises licence holders
- Persons / bodies representative of local club premises certificate holders
- Persons / bodies representative of local personal licence holders
- Persons / bodies representative of local businesses and residents in the area

2.13 This consultation was carried out between TBC.

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

2.15 This Policy was formally adopted by the Council on TBC and had effect from TBC. It will remain in force for a maximum period of five years. It will then be subject to review and further consultation. The Licensing Authority may revise the Policy at any time during the five year period if it considers it appropriate to do so and will consult on any substantial revisions to the Policy.

3. The licensing function

Purpose

- 3.1 The purpose of the licensing function is to promote the licensing objectives through the effective regulation of licensed premises, qualifying clubs and temporary events. The Licensing 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.
- 3.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a “cure all” for solving all problems within the community. The Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the police, the fire authority, the Council’s Environmental Health Department, the Community Safety Partnership, local businesses and local people towards the promotion of the objectives as outlined.

Delegation of Functions

- 3.3 The powers of the Licensing Authority under the Act may be carried out by the Licensing Authority’s Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority. The Licensing Committee will consist of between 10 and 15 elected members of the Council and will establish sub-committees consisting of 3 members of the committee. The Council’s delegation of functions follow the Home Office Guidance issued under section 182 of the Act.
- 3.4 Many of the licensing procedures will be largely administrative and uncontentious. In the interests of efficiency and effectiveness officers will generally carry these out.
- 3.5 In situations where representations have been made and an agreement has been reached between all relevant parties to amend the application (i.e. to add conditions) the Licensing Authority reserves the right to not hold a hearing and issue the licence as per the agreement (in such situations the application will be considered ‘uncontested’). This will only be done when the proposed amendments promote the licensing objectives and consideration will be given to the potential for any party to be disadvantaged.
- 3.6 A list of delegations is available below:

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 personal licence with unspent convictions		All cases	
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 (except addition of conditions)	Addition of conditions consistent with existing Licence
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
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)		

Related Legislation, Policies and Guidance

- 3.7 When making licensing decisions, the Licensing Authority will comply with all relevant legislation and have regard to a number of strategies, policies and guidance documents. This includes:

Legislation

- Section 17 Crime and Disorder Act 1998
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- Equality Act 2010
- Crime and Disorder Act 1998
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014
- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005
- Town and Country Planning Act 1990
- Private Security Industry Act 2001
- Violent Crime Reduction Act 2006
- Police Reform and Social Responsibility Act 2011

Strategies

- Current East and Mid Devon Community Safety Strategy
- Current Government alcohol strategy
- Current Mid Devon Corporate Plan

Policies / Codes of Practice

- Regulators' Compliance Code (BIS – April 2014)
- The Council's Enforcement Policy
- Local Transport Plan

Guidance

- Guidance issued under s.182 of the Licensing Act 2003 (Home Office) [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#)

- Guidance to Health and Safety at Outdoor Events (Purple Book) [The Purple Guide](#)
- Licensed Property: Noise Control (British Beer and Pub Association) [Home | BBPA \(beerandpub.com\)](#)
- Guidance on running events safely (HSE website) [Event safety - Running an event safely \(hse.gov.uk\)](#)
- Managing work-related violence in licensed and retail premises (HSE) [Workplace violence in the retail industry \(hse.gov.uk\)](#)
- Any guidance / policy produced by the Council in relation to noise nuisance [Noise nuisances - MIDDEVON.GOV.UK](#)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks [portmangroup.org.uk](#)

3.8 There are some other notable pieces of legislation and these are as follows:

Gambling Act 2005

- 3.9 The provision of gaming machines and certain forms of low-stakes gambling (i.e. poker and bingo) are permitted in alcohol-licensed premises and qualifying clubs under the Gambling Act 2005. The type of gambling allowed, 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 Licensing 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.
- 3.10 The Council has adopted a Gambling Act Policy which stands separate from this Policy. The Policy may be viewed on the licensing webpages of the Council website.

Health Act 2006

- 3.11 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 Licensing 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

Sexual Entertainment Venues

- 3.12 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.
- 3.13 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 Act), the 1982 Act disapplies the entertainment licensing regime in the Act in favour of its stricter regime for the control of sex establishments.
- 3.14 However, the Act will permit the holder of a premises licence to carry out relevant entertainment where the premises are not licensed as a sex entertainment venue under the 1982 Act if:
- The relevant entertainment has only 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.
- 3.15 The Council has an adopted Sex Establishment Policy which stands separate from this Policy.

Promotion of Equality

- 3.16 This Policy recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Actions of the Licensing Authority will be undertaken with due regard to equality obligations and where necessary, information will be published at least annually by the Council.

Integrating Strategies and Avoiding Duplication

- 3.17 This Policy supports the following elements of the Council’s Corporate Plan:
(Section to be updated for new Corporate Plan once agreed)
Economy

- Business development and growth
- Improving and regenerating our town centres
- Growing the tourism sector

Community

- Working with local communities to encourage them to support themselves
- Working with town and parish councils
- Increasing activity and promoting health and wellbeing

Environment

- Protecting the natural environment

3.18 The Licensing Authority recognises that unnecessary and over-burdensome regulation can prevent businesses from thriving and growing. The Licensing 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.

3.19 The Licensing 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. To this end, the Licensing 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.

Planning

3.20 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

3.21 The Licensing Authority recognises that it is legally permissible for applications for licences to be made before any relevant planning permission has been sought or granted by the planning authority. However the grant of a licence under the Act does not remove the need for applicants to obtain all the necessary planning consents. It should also be noted that grant of a licence in no way means that any planning application would also be granted and vice versa.

- 3.22 It is strongly recommended that prospective applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It makes operational sense to ensure that planning and licensing are compatible.
- 3.23 Where, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of planning permission (and vice versa where the licensing hours finish earlier than the planning permission).

4. The licensing process

General

- 4.1 Application forms may be downloaded from the Licensing Authority's licensing webpages. Applicants are strongly recommended to discuss their application with a member of the Licensing Team prior to formal submission. The Licensing Authority may reject applications which have not been completed correctly or contain insufficient information.
- 4.2 Applications, notices or relevant representations shall be treated as having been "given" to the Licensing Authority in accordance with the principles of "deemed service" as set out in the Civil Procedure Rules.
- 4.3 The Act requires that applications for premises licences / club premises certificates are advertised in accordance with regulations. The Licensing 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 Licensing Authority may reject the application. Further guidance on advertising applications is available on the Act pages available on the Licensing Authority's website (to be updated after adoption of updated Statement prior to publication).
- 4.4 When determining applications the Licensing Authority will have regard to this Policy, the Act and the section 182 Guidance. Each application will be considered on its own individual merits.
- 4.5 Applicants should make themselves aware of the relevant sections of this Policy, in particular the issues that will need to be addressed in formulating the operating schedule and offering appropriate conditions. In order to assist with this, the Licensing Authority has created two documents of note, a 'Pool of Conditions' and a 'Code of Practice for Licensed Premises'. These documents can be found on the Licensing Authority website.
- 4.6 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the location and type of premises, the licensable activities to be provided, and the operational procedures.
- 4.7 Applicants should consider the benefits of exceeding their statutory consultation requirements by proactively seeking the views of parties on the application and

proposed licensable activities. This includes proactively liaising with local residents, local ward Councillors, businesses and responsible authorities.

Regulated entertainment exemptions and de-regulations

- 4.8 Since the introduction of the Act, the Government has de-regulated various types of regulated entertainment. Applicants are advised to consult the Government's website for further information:

<https://www.gov.uk/guidance/entertainment-licensing-changes-under-the-live-music-act>

- 4.9 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 regulated entertainment or not. If in doubt, organisers of events should check with the Licensing Authority.
- 4.10 Although some forms of entertainment no longer require a licence in specific circumstances, it is important to note that licence holders must still operate in a way that promotes the four licensing objectives.

Note: If a premises operates in a way that undermines the licensing objectives, including in relation to forms of entertainment that no longer require a licence, then mechanisms exist to address this. For example, if music that does not require a licence is creating a noise nuisance then Environmental Health can take action under the Environmental Protection Act 1990 and from a licensing perspective, the licence itself can be reviewed.

New and full variation process

- 4.11 The procedure for making a new application and changes to existing Premises Licences or Club Premise Certificates are very similar. Both involve the same advertising procedure, a 28 day consultation period and the application is determined by the Licensing Sub-Committee if relevant representations are received. If no relevant representations are received then the application is automatically granted at the end of the consultation period
- 4.12 In brief, applicants must:

- Submit a completed application on the prescribed application form to the Council with the required fee and a plan of the premises of 1:100 scale (unless agreed otherwise). The application form must include an Operating Schedule.
- Submit an entire copy of the application to all Responsible Authorities at the same time as the application is submitted to the Licensing Authority. NB. *If applicants chose to submit the application electronically they are not required to submit copies to the Responsible Authorities.*
- Advertise the application in a prominent position at or on the premises on a pale blue coloured notice of at least A4 size with a minimum font size of 16, for not less than 28 consecutive days starting on the day following the day on which the application was submitted to the Licensing Authority.
- Advertise the application within 10 working days (starting on the day following the day on which the application was submitted to the Licensing Authority) in a local newspaper circulating in the Mid Devon area.
- If the application includes the retail or supply of alcohol, the consent of the individual Personal Licence holder who wishes to be the Designated Premises Supervisor (DPS) is required with the application.

The application will be advertised on the Council's website.

- 4.13 All applicants for the grant or variation of a Premises Licence or Club Premises Certificate are expected to demonstrate within their Operating Schedules how they intend to promote each of the four licensing objectives. The proposals included in the Operating Schedule will form the main body of conditions to be applied to the licence or certificate (if granted).

Beer gardens or other outdoor spaces

- 4.14 Applicants should consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is treated as taking place where the alcohol is appropriated to the contract. This means that where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer, this would be treated as an off-sale and any conditions that relate to off-sales would apply.
- 4.15 In such cases it will not be necessary to include the garden or other outdoor space on the plan as part of the area covered by the Premises Licence, assuming the licence authorises the sale of alcohol for consumption off the premises. However, it will be

necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the Premises Licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).

- 4.16 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed application form requires the applicant to provide a description of where the place is and its proximity to the premises.

Mobile, Remote, Internet and Other Delivery Sales

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

Vessels

- 4.19 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 may be refused.

Minor Variation process

- 4.20 Small changes to a Premises Licence or Club Premises Certificate that will not impact adversely on the licensing objectives can be dealt with via the 'Minor Variation' process which is a scaled down version of the full variation process detailed above, with a reduced fee.

4.21 We expect that the process will be used for changes such as:

- Small changes to the structure or layout of a premises;
- Additional authorisations required for late night refreshment or regulated entertainment (such as live music, performance of plays or film exhibitions);
- Small changes to licensing hours (see below for changes that relate to alcohol);
- Revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions).

4.22 Minor variation applications will not apply to:

- Substantial changes to the premises;
- Varying the Designed Premises Supervisor;
- Authorising the sale by retail of alcohol;
- Authorising the supply of alcohol at any time between 23:00 and 07:00 hours;
- Authorising an increase in the amount of time on any day during which alcohol may be sold by retail.

4.23 In brief, applicants must:

- Submit a completed application on the prescribed application form to the Council with the required fee. If you are applying for a variation to the layout of your premises, you must include a revised plan of the premises of 1:100 scale (unless agreed otherwise).
- Advertise the application in a prominent position at or on the premises on a white notice of at least A4 size with a minimum font size of 32 for the header and 16 for the content, for not less than 10 working days starting on the day following the day on which the application was submitted to the Licensing Authority.

4.24 On receipt of a minor variation application, the Licensing Authority will consider the application and consult the relevant Responsible Authorities as it considers appropriate. In deciding on the application the Licensing Authority will consider any relevant representations received within the statutory time limit (10 working days

from the day after the application was received by the Licensing Authority). The Licensing Authority will either grant the application or refuse it where it considers that the proposed application could impact adversely on any of the four licensing objectives.

- 4.25 If the Licensing Authority fails to determine the application within 15 working days, the application will be treated as being refused but the fee returned. However, in such cases the Licensing Authority and applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application thus avoiding the need for a new application to be submitted.
- 4.26 Applications that have been rejected under the minor variations process can then be the subject of a full variation application or a revised minor variation application. The refusal of a minor variation does not affect or pre-determine any subsequent variation application in respect of the same premises.

Personal Licence process

- 4.27 Any premises licensed for the sale of alcohol must specify a Designated Premises Supervisor (DPS). This person must be a Personal Licence holder. In order to obtain a Personal Licence, the applicant must:
- Be aged 18 or over
 - Submit a completed application on the prescribed application form to the Council with the required fee.
 - Possess a licensing qualification accredited by the Secretary of State
 - Not have forfeited a Personal Licence within 5 years of his/her application
 - Produce a satisfactory 'Basic Disclosure' from the Disclosure and Barring Service (DBS), or the results of a subject access search of the police national computer by the National Identification Service (this check must be no more than one month old at the time of application)
 - Not have an objection notice from the police about the grant of a Personal Licence following notification of any unspent relevant offence or foreign offence; OR must show that such an offence should not lead to refusal on crime prevention grounds

- 4.28 Photographs submitted with the application must be clearly endorsed on the reverse side with the person's name, date of birth and contact number in order to ensure they are correctly processed.
- 4.29 Applicants with unspent criminal convictions for relevant offences set out in the Act are strongly encouraged to first discuss their intention to apply for a Licence with the police and Licensing Authority before making an application.
- 4.30 There is no longer a requirement to renew a Personal Licence and the licence is portable, although changes of name and home address or updates to photos must be notified to the issuing Licensing Authority for a prescribed fee.

Temporary Event Notices (TENs)

- 4.31 The Act sets out the legal requirements relating to TENs. A TEN is a notification given by an individual to the Licensing Authority where it is proposed to use a premises for one or more licensable activities during a period not exceeding 168 hours. They can be used to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time.
- 4.32 A TEN is typically used to:
- Authorise a licensable activity at a premises not currently licensed - e.g. selling alcohol at a fete
 - Temporarily extend the hours for providing a licensed activity at an existing licensed premises for a specific event
 - Provide for licensable activities not authorised by the existing licence
- 4.33 The organiser must submit a TEN to the Licensing Authority and where this TEN is submitted in writing, it is the responsibility of the notice giver to ensure that a copy is sent to the police and Environmental Health as stipulated in the Act. Where a TEN has been submitted electronically copies of it will be forwarded to the police and Environmental Health by the Licensing Authority.
- 4.34 The TEN must normally be submitted 10 clear working days' before the proposed event. This does not include the date of submission, the date of the event, weekends or bank holidays. It is recommended that TENs are submitted to the Licensing Authority at least 28 days prior to the event to allow sufficient time for the organiser to liaise with relevant Council officers and Responsible Authorities to ensure the event takes place with minimum problems.

- 4.35 Where relevant representations are received from the police or Environmental Health, the matter will be referred to the Licensing Sub-Committee for a decision as to whether or not the event can take place. Where representations relate purely to the addition of conditions to the TEN which are consistent with an existing Premises Licence, a statement of conditions will be issued with the TEN without the need for a Licensing Sub-Committee hearing, unless the applicant disagrees.
- 4.36 Late TENs can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the Licensing Authority, must also be sent by the notice giver to the police and the Council's Environmental Health section.
- 4.37 It should be noted that in case of any relevant objections to a late TEN a counter notice will be served and the event cannot take place.

Large Scale Public Events

- 4.38 The Council encourages the promotion of well-run events within the district and recognises the benefits that such events can bring to the local economy and community.
- 4.39 Large scale events, such as outdoor musical festivals and other events, have significant potential to undermine the promotion of the licensing objectives, due to their size, complexity and the potential implications for planning such events.
- 4.40 The Council strongly recommends that organisers of large scale public events consult the Safety Advisory Group (SAG) at the earliest opportunity to discuss arrangements for the licensing of those activities. This will help to ensure that they can obtain expert advice on how best to minimise the risk of injury and public nuisance.
- 4.41 The application may involve the preparation of a substantial Event Management Plan which may take some time to complete. We recommend applicants engage with the SAG process a minimum of 6 months prior to the proposed event starting date. This is important to ensure that there is adequate time to apply for and obtain the relevant licences for the event to take place.
- 4.42 For large scale events that are occasional in nature and where the maximum number of attendees exceeds 499 people, the Licensing Authority will require an application for a full or time-limited Premises Licence. Risks associated with an event can be adequately mitigated by the submission of an up to date, relevant, detailed and complete Operating Schedule specific to the proposed event.

- 4.43 Through the application process, Responsible Authorities and interested parties will have the opportunity to make representations relevant to the nature of the event which is planned.

Disapplication of Certain Mandatory Conditions for Community Premises

- 4.44 An amendment to the Act 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.
- 4.45 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 will be 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.

Licence Reviews

- 4.46 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 Licensing Authority regards this as a valuable protection for residents and businesses.
- 4.47 Following receipt of a review application, a 28 day consultation period will begin. The application will then be determined by the Licensing Sub-Committee who 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 Licensing Authority include:
- Take no further action
 - Issue a warning to the licence holder
 - Modify the conditions of the Premises Licence

- Exclude a licensable activity from the scope of the Licence
 - Remove the DPS
 - Suspend the licence for up to 3 months
 - Revoke the licence
- 4.48 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 reviews that 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 (e.g. Environmental Health in relation to noise nuisance or the police in relation to crime and disorder) to establish whether there is other action(s) that can be taken to resolve the problem.
- 4.49 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, except 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.
- 4.50 When considering a review of a Premises Licence or Club Premises Certificate, the Licensing 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.
- 4.51 In cases of serious crime and disorder at premises, the police may apply for a summary review. On receipt of such an application, the Licensing Authority has 48 hours to determine whether any interim steps are required. Further information about this process can be seen in the section 182 guidance.
- 4.52 Any person aggrieved by the decision of the Licensing Authority has the right of appeal to the Magistrates' Court. An appeal must be made within 21 days of the Licensing Authority's decision.

Licensing Fees

- 4.53 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.
- 4.54 It is the practice of this Licensing Authority to issue an invoice for annual fees approximately a month before the due date. 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.
- 4.55 No refund is payable for any withdrawn or refused application / notification. In accordance with the Act, the fee for a minor variation is refundable, but only when the application is not determined within the statutory time period.

Late Night Levy (LNL)

- 4.56 A Late Night Levy (LNL) is an optional power available to local authorities to raise a contribution towards the costs of policing the night time economy. The power enables a licensing authority to charge a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol. A LNL must apply across the whole of the local authority area and applies to all on and off licences. Temporary Event Notices are exempt.
- 4.57 A LNL would require that a levy be paid by those persons who are authorised to sell alcohol between the periods specified in the LNL (the late night supply period) regardless of whether they are actually open during that period. This can be no earlier than 00:00 hrs and no later than 06:00 hrs and must be the same period every day. 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.
- 4.58 At least 70% of the LNL must be paid to the Police and Crime Commissioner. The local authority's portion can be used to tackle alcohol related crime and disorder and to support management of the night time economy in line with the reduction of crime and disorder, promotion of public safety; prevention of public nuisance and street cleansing.
- 4.59 The implementation of a LNL is subject to public consultation and, if it is to be introduced, must be adopted at a meeting of the council.

- 4.60 At the time of preparing this Policy, this Licensing Authority has taken no decision and has no plans to implement a LNL but is aware that it is a power which it may use if it considers it appropriate for the promotion of the licensing objectives.
- 4.61 The Licensing Authority will, however, consider the introduction of a LNL at any time if circumstances change and evidence supports this course of action.

Early Morning Restrict Orders (EMROs)

- 4.62 Early Morning Restriction Orders (EMROs) enable a licensing authority to prohibit the sale of alcohol for a specified time period between 00:00 hrs and 06:00 hrs in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 4.63 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 LNL there are no powers to charge a fee in connection with making an EMRO.
- 4.64 The decision to implement an EMRO must be evidence based. Evidence will be considered from partners including Responsible Authorities and the Community Safety Partnership alongside the authority's own evidence to determine whether an EMRO is appropriate for the promotion of the licensing objectives.
- 4.65 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
 - other mechanisms designed for controlling cumulative impact
 - encouraging Licence or Certificate holders to make variations with respect of hours for licensable activities.
- 4.66 The only exemptions relating to EMROs are premises which are authorised to sell alcohol between 00:00 hrs and 06:00 hrs 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.

- 4.67 At the time of preparing this Policy, this Licensing 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.

Cumulative Impact

- 4.68 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 Policy.
- 4.69 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new Premises Licences and Club Premises Certificates and applications to vary existing Premises Licences and Club Premises Certificates in a specified area.
- 4.70 Section 5A of the Act sets out what a licensing authority needs to do in order to publish a CIA and review it, including the requirement to consult with the persons listed in section 5(3) of the Act. The Act does not stipulate how the CIA should be used once published, because the requirements for determining applications for new licences or variations are the same in areas with a CIA as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any CIA published by a licensing authority must be summarised in its statement of licensing policy. Under section 5(6D) a licensing authority must also have regard to any CIA it has published when determining or revising its statement of licensing policy.
- 4.71 The licensing authority will not operate a quota of any kind, which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community. This may result in the amenity of local residents being placed under

severe pressure; it will not always be possible to attribute a particular problem to customers of particular premises. This means that whilst enforcement action to ensure conditions are complied with is taken, this may not resolve all problems.

4.72 Local Community Safety Partnerships and Responsible Authorities, such as the police and environmental health, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA. Information which licensing authorities may be able to draw on includes:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots
- statistics on local anti-social behaviour offences
- health-related statistics such as alcohol-related emergency attendances and hospital admissions
- environmental health complaints, particularly in relation to litter and noise
- complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations
- residents' questionnaires
- evidence from local and parish councillors
- evidence obtained through local consultation.

4.73 The licensing authority may consider this evidence, alongside its own evidence of the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:

- trends in licence applications, particularly trends in applications by types of premises and terminal hours
- changes in terminal hours of premises;
- premises' capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

- 4.74 If a CIA is published the licensing authority must, within three years, consider whether it remains of the opinion set out in the assessment. In order to decide whether it remains of this opinion it must again consult the persons listed in section 5(3).
- 4.75 Having published a CIA a licensing authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the licensing authority will be considering whether it is appropriate to make a representation to its committee as a Responsible Authority in its own right. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.
- 4.76 The licensing authority recognises that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour that occurs away from licensed premises. These include:
- planning control
 - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as Best Bar None, Pubwatch or Business Improvement District
 - Community Protection Notices
 - the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
 - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
 - the confiscation of alcohol from adults and children in designated areas
 - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices

- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
- Raising a contribution to policing the late night economy through the LNL
- EMROs

4.77 Additional information on CIA can be found in the section 182 guidance. This Licensing Authority has not published a CIA at the time of writing this Policy.

Public Spaces Protection Order (PSPOs)

4.78 The Designated Public Place Order has been replaced by the Public Spaces Protection Order (PSPO) – see Anti-social Behaviour, Crime and Policing Act 2014. PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable. Before making a PSPO, a council must consult the local police.

4.79 At the time of preparing this Policy, the Council have no alcohol relevant PSPOs.

Licensing register

4.80 The Act requires the Licensing Authority to keep a register containing a record of each Premises Licence, Club Premises Certificate and Personal Licence issued, along with the TENs received. Our register may be accessed online at the following link: <https://www.middevon.gov.uk/business/licensing/online-licensing-register/>.

4.81 Alternatively, the register may be viewed at Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP during normal opening hours. It is recommended that any person wishing to view the register in person should contact the Licensing Team in advance to ensure that your request can be catered for at the time of visit.

5. Responsible Authorities and Representations

Responsible Authorities

5.1 Responsible Authorities are public bodies that must be notified of applications under the Act. All Responsible Authorities are entitled to make representations in respect of grant, variation and review applications.

5.2 The Responsible Authorities are as follows:

- The Council's Licensing Authority
- The Council's Environmental Health Service
- The Council's Planning Services
- Devon & Cornwall Constabulary
- Devon Fire & Rescue Service
- Local Safeguarding Children's Board, Devon County Council
- Heart of the South West Trading Standards
- Health and Safety Executive
- Director of Public Health (Devon DAAT)
- Home Office (Alcohol Licensing Team)

5.3 Complete details for Responsible Authorities, including contact addresses is available in Appendix A.

Licensing Authority

5.4 The Police Reform and Social Responsibility Act 2011 amended the 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.

5.5 In cases where the licensing 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.

5.6 The licensing authority is unlikely to make representations on behalf of other parties such as individuals, local councillors etc., as these persons can make representations in their own right. Similarly, the licensing authority will expect other Responsible Authorities to make representations on issues falling within their own remit. For example, the licensing authority is unlikely to make representations purely based on crime and disorder as this falls within the remit of the Police.

Other Persons

5.7 The Act allows any "other person" to make representations about a licensing application provided that it is relevant to one or more of the licensing objectives.

5.8 Other Persons means any individual, body or business affected by the operation of licensed premises regardless of their geographical location. The term also includes local councillors who can make representations in their own right or on behalf of a named Other Person, such as a resident or local business if specifically requested to do so.

Making Representations

5.9 When an application is made for the grant or the variation of a premises licence or club premises certificate a Responsible Authority under the Act or any other person may make a representation about the application.

5.10 Representations must be made to the Licensing Authority in writing within the 28 day consultation period. For this purpose, a representation can be made using the form available on the Council's website or by letter or e-mail to the Licensing Team.

5.11 Section 18(6) of the Act 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 following licensing objectives:

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

5.12 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. This Licensing Authority will consider both positive and negative representations provided they are relevant.

5.13 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. This Licensing Authority has established its own hearing procedures as provided for by regulations made under the Act and this is included as Appendix B.

5.14 Any Other Person attending a hearing may expand on their representation but may not introduce new or different representations.

- 5.15 Representations which are deemed by this Licensing Authority to be repetitious, frivolous or vexatious will be disregarded.
- 5.16 Where relevant representations have been made against an application the Licensing Authority will normally try to see if any mediation is possible between the applicant and any Other Person. The purpose of mediation is to allow each party to express their concerns or views in an attempt to come to an agreed position. A positive mediation result saves time and money as the Licensing Authority and parties involved may not have to attend a contested hearing before a Licensing Sub-Committee.

Anonymous Representations and petitions

- 5.17 The Licensing Authority cannot accept anonymous representations. Full details of all representations must be made available to the applicant, including names and addresses. However, 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.
- 5.18 Where this Licensing Authority considers that the Other Person has a genuine and well-founded fear of intimidation and may be deterred from making a representation, the Licensing Authority may consider alternative approaches. For example, the individual may be advised 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.
- 5.19 Alternatively, the Licensing Authority may advise the Other Person to request their local councillor make a representation on their behalf. Where appropriate, the Licensing Authority may decide to withhold some or all of the Person's details from the applicant. The Licensing Authority will only withhold such details where the circumstances justify such action.
- 5.20 Persons making representations should be aware that their personal details will normally be disclosed during the hearing process. Although, some personal data will be redacted from public documents in accordance with relevant legislation.
- 5.21 Any petitions received will be treated as one representation from the Other Person sending it in, supported by the other signatories. Petitions will not be treated as individual representations from everyone who has signed them.

6. Decision Making

Determining applications

- 6.1 Where relevant representations are received about an application, a hearing will be held unless the Licensing Authority, the applicant and everyone who has made representations agree that a hearing is not necessary. Applicants and those making representations should seek in advance of any hearing to try and reach agreement or narrow the areas in dispute, particularly where both are professionally represented.

- 6.2 This Licensing Authority has established its own hearing procedures as provided for by regulations made under the Act and this is included as Appendix B.
- 6.3 When determining a licence application, the overriding principle adopted by this Licensing Authority will be that each application will be determined on its merits. The Licensing Authority will have regard to any guidance issued by the Home Office, this Policy and any measures it deems necessary to promote the licensing objectives. The Licensing Authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The Licensing Authority will give reasons for any such departure from the Policy.
- 6.4 The Licensing Authority will expect applicants to demonstrate in their applications active steps for the promotion of the licensing objectives. When determining an application, a key consideration for the Licensing 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 decided that no measures will be appropriate to cover the promotion of one or more of the licensing objectives.
- 6.5 The Licensing 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, antisocial behaviour, littering and noise, particularly late at night and in the early morning.
- 6.6 Since the introduction of the Act, the Licensing 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 Licensing 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.
- 6.7 When determining an application, the Licensing Authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The Licensing 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 Licensing Authority will consider their application or representation but may attach less weight to it.
- 6.8 It should be noted that, when determining an application, the Licensing Authority is making a judgment 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.

- 6.9 Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection, for example Health and Safety at work, fire safety legislation etc.
- 6.10 The Licensing Authority will also take into account when making its decision that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour, especially once individuals have left licensed premises and are therefore beyond the direct control of licensees. However, when making a decision, the Licensing Authority will focus on the direct impact of the activities taking place on the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 6.11 The 'need' or demand for a licensed premises of any kind or the commercial damage that competition from a new licensed premises would do to other licensed premises in an area will not be matters that the Licensing Authority will consider when discharging its decision making function.
- 6.12 In the majority of hearings a summary of the decision will be given verbally on the day. A full written decision letter will be provided to the applicant and anyone who has made a relevant written representation within 5 working days of the hearing; this will include details on how to appeal a decision.
- 6.13 Any party to a hearing who is dissatisfied with the Licensing Authority's decision may appeal to the Magistrates' Court. An appeal must be made within 21 days of formal notification of the decision. Anyone wishing to appeal is strongly advised to seek legal representation and/or contact the relevant court for further advice. The Council will not be able to assist or provide any legal advice. The relevant court is the North and East Devon Magistrates' Court.
- 6.14 In reaching a decision on whether or not to grant a licence, the Licensing Authority, if relevant representations are made, may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that

the management of the premises is not adequate to protect the public from harm or nuisance.

Licensing hours

- 6.15 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the Licensing Authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Other Persons on the basis of the licensing objectives.
- 6.16 In general, applications for licensed premises located in residential areas wishing to open beyond 23.00, and those operating a beer garden or outside area beyond 21:00, will be expected to have a higher standard of control included within their Operating Schedule to address any potential public nuisance issue.
- 6.17 Where representations are received, stricter conditions relating to noise control may be appropriate and necessary in sensitive locations such as residential areas.
- 6.18 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide and promote a range of entertainment during their operating hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their Operating Schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 6.19 In considering relevant representations, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case.
- 6.20 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.

Conditions

- 6.21 The Licensing Authority cannot impose conditions of its own volition. Conditions will only be attached in the following circumstances:

- Mandatory conditions under the Act or introduced by regulation under the Act which will have effect in all circumstances regardless of if they appear on the licence
- If they are consistent with the applicant's Operating Schedule, or agreed/offered by the applicant during the application process
- When considered appropriate, reasonable and proportionate after relevant representations have been received and not withdrawn

6.22 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
- be written in a prescriptive format

6.23 The Licensing 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.

6.24 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, this Licensing Authority has compiled a Pool of Conditions available on the Council's website.

- 6.25 The Pool of Conditions is not intended to form an exclusive or exhaustive list of conditions which should be included on a Licence or certificate. Applicants should consider offering conditions that are appropriate, necessary and proportionate in the circumstances of their particular application. Moreover, the Pool does not restrict any applicant, Responsible Authority, or Other Person from proposing any alternative conditions, nor does it restrict the Council's Licensing Sub-Committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives (after representations have been received to an application and by way of a hearing).
- 6.26 Any conditions offered in the Operating Schedule in wording that is not compliant with the principles outlined above will be suitably reworded by the Licensing Authority.
- 6.27 The Licensing Authority will pay particular attention to the effect (or potential effect) 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.
- 6.28 Conditions attached by the Licensing 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.
- 6.29 The Licensing Authority will not impose inappropriate or over-burdensome conditions on licences. The Licensing 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.
- 6.30 When determining the appropriate set of conditions the Licensing Authority will focus primarily on the individual style of the premises and the licensable activities proposed. Consideration should also be given to the following:
- The size, nature and style of the operation
 - Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested
 - The cumulative effect of conditions in terms of cost and practical implementation

- The likely cost of the condition(s) for the operator
- Whether a simpler or better way of dealing with a perceived problem could be found
- Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition
- Whether the condition will be enforceable, if it is not specific or could be considered subjective it may not be enforceable

7. Enforcement and Code of Good Practice

- 7.1 It is the role of the Licensing Authority to protect the public from any harm that might arise from the provision of licensable activities at licensed premises. As part of this role Council licensing officers conduct visits to licensed premises to monitor compliance with the requirements of the Premises Licence and ensure the promotion of the licensing objectives.
- 7.2 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.
- 7.3 In general, action will be taken in accordance with the Council's Environmental Health Enforcement Policy. This document can be viewed here:

<https://www.middevon.gov.uk/residents/public-health/public-health-enforcement-policy/>

- 7.4 Each enforcement action will be considered on its own individual merits.
- 7.5 In Mid Devon we aim to visit all premises licensed under the Act in accordance with an allocated risk rating. The premises risk rating is based on factors such as the nature of the premises, the range of licensable activities authorised, the times of activities and confidence in the management of the business.
- 7.6 It is strongly recommended that those responsible for the day to day management of licensed premises carry out regular licence compliance checks themselves. To ensure compliance levels, the relevant person(s) should consider the following matters:
- Is the listed DPS current?
 - Has the DPS authorised staff in writing to sell alcohol on their behalf?
 - Do you have a written age verification policy?
 - Are your staff familiar with, and trained in licensing requirements?
 - Can you show records of relevant staff training?
 - Are your staff training records up to date?
 - Is your Part A licence (or certified copy) available for inspection at the premises?
 - Is your Part B (licence summary) prominently displayed at the premises?
 - Is the premises plan accurate and up to date?

If the answer to any of these questions is 'no', remedial actions need to be taken.

[Code of good practice for licensed premises](#)

- 7.7 In order to assist in the general management of licensed premises, the Licensing Authority has created a 'Code of good practice for licensed premises' which is available on the Council's website. It includes some templates of standard documents, as well as some links to useful information and resources. Completing these templates and using the resources provided will help premises to promote the licensing objectives.
- 7.8 The information in the Code of good practice should not be considered as standard requirements for all premises. It is very important that each premises is considered on its own individual merits and only relevant and required actions are requested and / or expected of them. Having said that, it is intended that the document will be used by the following:

Applicants and licence holders

- 7.9 It is important to take a proactive and preventative approach to managing a licensed premises as this will ensure problems either do not occur to begin with, or if they do, are dealt with quickly.

7.10 Applicants should therefore read this document before submitting an application. It is considered a good starting point in assessing the potential risks of your premises. The identification of a risk will not necessarily warrant a condition on a licence. Additionally, licence holders should be familiar with this document as it will highlight any additional operational measures they may need to put in place.

The Licensing Authority and Responsible Authorities

7.11 This code is not a statutory document but it may be taken into consideration and used:

- When offering advice to applicants pre-application
- When offering advice to licence holders in general
- As a starting point to dealing with licensed premises encountering problems, in order to promote the licensing objectives and address issues
- When enforcement action is required as a result of continued issues with premises not promoting the licensing objectives i.e. reviewing a Premises Licence

Dealing with premises not promoting the four licensing objectives

7.12 Where problems or concerns are identified at a licensed premises this will be addressed as early as possible by the Licensing Authority. We aim to work in partnership with licence holders to address issues and we will offer guidance and advice where we can.

7.13 The Licensing Authority and Responsible Authorities will agree appropriate measures with licensed premises and this may include points within the Code of good practice. This may be in the form of an 'action plan' and will provide a clear framework for actions to be undertaken. The ultimate aim of the Code and its application is to try and avoid the need for more formal enforcement action such as a prosecution or review.

8. Promotion of the Licensing Objectives

Introduction

8.1 When carrying out its functions and exercising its powers under the Act the Licensing Authority will aim to promote the licensing objectives at all times. In promoting these licensing objectives, the Licensing Authority aims to encourage a safe, crime free environment where everyone can enjoy the full range of licensable activities offered.

8.2 The licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance

- The protection of children from harm

8.3 Each licensing objective is of equal importance and they are the only factors that can be taken into account in determining an application and any conditions attached to a licence.

8.4 The Licensing Authority will require applicants to take appropriate and proportionate measures to promote the licensing objectives. The Council has produced two documents to assist applicants (and existing licence holders) with this and these are the Pool of Conditions and a Code of good practice for licensed premises'. Both of these documents are split into different sections covering each of the different licensing objectives. Additional information can also be found in the section 182 Guidance.

Prevention of Crime and Disorder

8.5 The Licensing 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.

Partnership working

8.6 The Licensing Authority looks to the police as the main source of advice on crime and disorder, but where appropriate, we will also seek to involve the local Community Safety Partnership. It should be noted however that any Responsible Authority under the Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations

8.7 In the exercise of its functions, the Licensing Authority seeks to co-operate with the Security Industry Authority ("SIA") as far as possible and will consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that

people who are drunk, appear intoxicated by drugs, drug dealers, known sex predators or people carrying firearms do not enter the premises and ensuring that the police are kept informed and / or paramedics called where there are health concerns.

- 8.8 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. The Licensing Authority will work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a Premises Licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Applicant or duty holder's responsibilities

- 8.9 The applicant should consider factors arising from activities at the premises or the activities of their customers within the vicinity of the premises that may impact on the prevention of crime and disorder, including but not limited to:

- Underage drinking
- Drunkenness on premises
- Drugs, including legal highs
- Spiking of drinks
- Violent behaviour
- Anti-social behaviour
- Sexual harassment and discrimination
- Theft
- Alcohol related driving offences

More information on these areas for consideration can be found in the Code of good practice for licensed premises.

Public Safety

- 8.10 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the Act. This concerns the safety of people

using the relevant premises rather than public health which is addressed in other legislation.

Fire Safety

8.11 Fire precautions and means of escape from licensed premises are particularly important. Large numbers of people, some of whom may be under the influence of alcohol, must be safely contained, managed and, if necessary, evacuated from premises. The attachment of conditions to a Premises Licence or Club Premises Certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform Fire Safety Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. As part of the risk assessment process, the premises / event maximum capacity must be calculated and complied with.

Risk Assessments

- 8.12 When addressing public safety, an applicant or licence holder should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the public safety objective. Such steps as are required to deal with these identified issues may be suitable to include within the applicant's Operating Schedule.
- 8.13 It is also recognised that special issues may arise in connection with outdoor and large scale events. Risk assessment must be used to assess whether any measures are necessary in the individual circumstances of any premises.

Disability Equality

- 8.14 Consideration should be given to matters to ensure that:
- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency
 - disabled people on the premises are made aware of those arrangements

disabled people may have physical and / or mental problems which should be considered
Safeguarding

8.15 Protecting children and vulnerable adults from harm and promoting their welfare is everyone's responsibility. An applicant and licence holders will need to demonstrate an ongoing commitment and ability to take appropriate steps to fulfil their safeguarding responsibilities.

It is recommended that persons employed on premises providing entertainment for children and youths complete training in basic child protection and safety and safeguarding, and if appropriate, have necessary DBS checks.

It is important that any safeguarding concerns in relation to children or vulnerable adults are recorded and reported to the Police and/or Devon County Council.

Prevention of Public Nuisance

8.16 The Act covers a wide variety of premises, including cinemas, concert halls, theatres, nightclubs, public houses, cafes, restaurants, fast food outlets and takeaways. Each of these premises presents a mixture of risks, with many common to most premises and others unique to specific operations. It is important that premises are constructed or adapted and maintained so as to acknowledge and safeguard occupants and neighbours against these risks, as far as is practicable.

8.17 Public nuisance is not narrowly defined in the Act and retains its broad common law meaning. It may include issues around nuisance, noise, disturbance, light pollution, noxious smells, vermin and pest infestations and accumulations of rubbish and litter.

8.18 The Licensing Authority recommends that applicants and licensees apply a higher standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises where:

- They are located in a residential or noise sensitive area
- They have or are proposing extended open hours

8.19 The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence holder can exert over its customers diminishes and

individuals who engage in ant-social behaviour are accountable in their own right. The licensing regime is not a mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the licence holder. However, where nuisance or anti-social behaviour is experienced in the vicinity of a licenced premises, the licensing authority expects the licensee to work in co-operation with the Council's Regulatory Team and the Police to improve the situation.

Protection of Children from Harm

- 8.20 The protection of children from harm objective includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).
- 8.21 The Council expects licensed businesses to work actively to prevent:
- Child sexual exploitation
 - The sale or supply of alcohol to persons under the age of 18
 - The sale or supply of alcohol to adults seeking to purchase on behalf of persons under the age of 18
 - The sale or supply of any other age restricted products to underage persons
 - Access by children to gambling activities
 - Access by children to any entertainment of a sexual nature

Child Sexual Exploitation (CSE)

- 8.22 Child sexual exploitation involves children being groomed and then sexually abused. The Council recognises that CSE is a major child protection issue across the UK.
- 8.23 The Council takes a strict "zero tolerance" approach in respect of CSE and expects licensed businesses to do the same. Conditions may be added by way of review of a licence if there is a specific CSE issue at a premises.
- 8.24 Measures designed to prevent underage sales and other harmful activities will have the secondary effect of preventing CSE by reducing or removing opportunities for abusers to groom children for sexual purposes.

Underage Sales and Age Verification

- 8.25 The Council expects licenced premises to work rigorously to prevent the sale or supply of alcohol to children. The mandatory licence conditions include a condition which requires all premises which are licensed to sell or supply alcohol to adopt an age verification policy whereby those who appear to be under 18 will be asked to provide photographic ID to prove their age before selling or supplying them with alcohol.
- 8.26 The Council encourages licensed businesses to go further than the requirements of the mandatory conditions and asks premises which are licensed for the sale or supply of alcohol to adopt the voluntary “Challenge 25” scheme. This scheme requires members of staff who carry out sales of alcohol to request photographic ID from anyone who appears to be under the age of 25 years. This does not preclude anyone over the age of 18 from purchasing alcohol, but does provide a much clearer framework for staff members in deciding when to ask for ID.
- 8.27 Applicants for Premises Licences or other permissions to sell or supply alcohol are encouraged to include the challenge 25 scheme within their Operating Schedule and it will be included as a condition, where appropriate.
- 8.28 Holders of Premises Licences and other permissions to sell or supply alcohol and their DPS must ensure that all staff employed at their premises receive regular training. Training must include child protection issues and the prevention of underage sales and proxy sales.

Children in Licensed Premises

- 8.29 The Licensing Authority recognises the great variety of premises for which licences may be sought. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from physical, moral or psychological harm.
- 8.30 When deciding whether or not to limit access to children the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children include premises:
- where entertainment of an adult or sexual nature is provided
 - where there is a strong element of gambling taking place
 - with a known association with drug taking or dealing

- where there have been convictions of the current management for serving alcohol to minors or with a reputation for allowing underage drinking
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- 8.31 In such circumstances as listed above the Licensing Authority would expect the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the Operating Schedule and if relevant representations are made, the Licensing Authority will consider applying conditions deemed necessary to meet the licensing objectives.
- 8.32 Conditions may be imposed, if not covered in other legislation, on licences for premises where children will be present at places of regulated entertainment to the effect that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances.
- 8.33 The options available for limiting access by children would include:
- a limit on the hours when children may be present
 - a limitation or exclusion when certain activities are taking place
 - the requirement to be accompanied by an adult
 - access may be limited to parts of the premises but not the whole
 - an age limitation (for under 18s).
- 8.34 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.

Display of Films and Theatrical Entertainment

- 8.35 In the case of premises giving film exhibitions, the Licensing Authority expects the holders of Premises Licences or other permissions to include in their Operating Schedules arrangements for restricting children from viewing age-restricted films

classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself.

- 8.36 In relation to theatrical entertainment, it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be necessary where entertainment is provided specifically for children, to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.

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Annex B

Hearing Procedures

1.0 Introduction

1.1 The role of the Sub-Committee is to determine applications / Temporary Event Notices (TENS) / reviews in an impartial manner in accordance with the relevant provisions of the Licensing Act 2003 (the 'Act'), national guidance and the Council's Policies.

2.0 Composition of Sub-Committee

2.1 The Sub-Committee shall usually consist of three Councillors drawn on a "panel" basis from the membership of the Licensing Committee.

2.2 In forming the membership of the Licensing Sub-Committee for a hearing, and where Councillors availability permits, Democratic Services shall try to ensure that:

- There are at least two experienced Members in attendance
- Rotation of membership

'Experienced' is defined as having previously taken part in two separate hearings.

2.3 Members may sit on a hearing which relates to their own ward as long as there is no conflict of interest and any relevant declarations are made at the beginning of the meeting.

2.4 The Chairman for a hearing shall be selected from the Members that form the Sub-Committee.

2.5 When unforeseen circumstances require, or an urgent matter has arisen, the Sub-Committee may be made up of two Councillors as opposed to three.

3.0 Hearings to be held in public

3.1 Licensing hearings shall take place in public. However, the Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

3.2 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:

- a) refuse to permit that person to return, or

- b) permit them to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

4.0 Time of Hearings

- 4.1 Hearings of the Licensing Sub-Committee shall usually be held at the Council offices during the day.

5.0 Notice of Hearing

- 5.1 The Licensing Authority shall give parties to the hearing a notice stating the date, time and place where the hearing is to be held. This is the 'Notice of Hearing' and must be given in accordance with regulations made under the Act (Licensing Act 2003 (Hearings) Regulations 2005 (the 'Hearing Regulations')).

- 5.2 The Notice of Hearing shall be accompanied by information regarding the following:

- a) the rights of a party provided for in regulations 15 and 16 of the Hearings Regulations
- b) the consequences if a party does not attend or is not represented at the hearing
- c) the procedure to be followed at the hearing; and
- d) any particular points on which the Licensing Authority considers that it will want clarification from a party at the hearing.

- 5.3 Each party shall respond to the Notice of Hearing within the time prescribed by the Hearing Regulations which shall be stated on the Notice itself. The response must state:

- a) whether they intend to attend or be represented at the hearing;
- b) whether they consider a hearing to be unnecessary

6.0 Right of Attendance, Assistance and Representation

- 6.1 Subject to paragraphs 3.1 and 3.2, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. A party may be assisted or represented by their Ward Councillor. Any Councillor

undertaking such a role would not take part in the determination of the matter before the Sub-Committee.

7.0 Hearings held on more than one day

7.1 When a hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

8.0 Right to dispense with a hearing

8.1 If all parties agree that a hearing is unnecessary, then with the agreement of the Licensing Authority, the hearing may be dispensed with.

9.0 Right to postpone or adjourn a hearing

9.1 The Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party.

10.0 Report

10.1 A report prepared by the Licensing Authority will be put before the Sub-Committee.

10.2 A copy of the report will be made available to all parties in advance of the hearing.

11.0 Detailed procedural notes

11.1 Detailed procedural notes for the most regularly heard hearings are available and will be circulated in advance of the relevant hearing. These procedural notes cover the following:

- New Premises Licence / Variation of existing Premises Licence (or Club Premises Certificate)
- TENS
- Review of a Premises Licence or Club Premises Certificate

12.0 Procedure at hearing - General

12.1 At the beginning of the hearing, the Chairman and members of the Sub-Committee will introduce themselves, invite parties to identify / introduce themselves and then explain the procedure that the Sub-Committee intends to follow.

12.2 If applicable, the Sub-Committee will then consider any request made by a party for any other person to appear at the hearing. Permission shall not be unreasonably withheld.

- 12.3 Where the written evidence or information provided by the applicant or any Other Party has raised legal issues or submissions, the Chairman may request that any legal representatives present at the hearing and the legal representative of the Licensing Authority address the Sub-Committee on the legal points raised.
- 12.4 The hearing shall take the form of a discussion led by the Sub-Committee on any matter that is relevant to the application, TEN or review.
- 12.5 The Chairman should indicate that members of the Sub-Committee have read the circulated papers; therefore there is no need for parties to repeat points that have already been made in representations.
- 12.6 In circumstances where there are a number of parties who wish to make the same or similar representations the nomination of a single spokesperson will usually be encouraged, and would normally be expected. This does not prevent those who have made representations from speaking during the hearing.
- 12.7 Applicants and Other Parties will not usually be given a time limit to present their application / representations but the Sub-Committee may stop them should they begin to repeat themselves or stray from what is considered to be relevant matters.
- 12.8 In considering any representations or objection notice made by a party, the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all other parties, at the hearing. A party introducing documentary evidence at a hearing should bring sufficient copies for all Other Parties and the Sub-Committee.
- 12.9 Members of the Sub-Committee may ask any question of any party or Other Person appearing at the hearing.
- 12.10 The Sub-Committee will disregard any information given by a party that is not relevant to the application, notice or representations made.
- 12.11 Parties may question any Other Party if permission is given by the Sub-Committee. Cross examination will not be allowed unless the Sub-Committee considers that it is required for it to consider the representations, application, or objection notice as the case may require.
- 12.12 Hearsay evidence is admissible but consideration will always be given to the weight, if any, to be attached to such evidence.

13.0 Roles of Officers

Representative of the Council's Legal Services

- 13.1 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.

Representative of the Council's Democratic Services

- 13.2 The role of the representative of Democratic Services will be to make a record of the proceedings both by way of notes of the evidence / information given and a minute of the decision reached, inclusive of the reasons for the decision.

Licensing Officer

- 13.3 The role of the Licensing Officer will be to introduce the application / objection notice, outline the relevant facts and any issues involved through the presentation of their report. They may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

14.0 Determination of Applications / Notices

- 14.1 Unless the matter being considered by the Sub-Committee falls within one of the categories listed in point 14.2, the Sub-Committee has five working days to make their determination beginning with the day, or the last day, on which the hearing was held.
- 14.2 In relation to the following matters, the Sub-Committee must make its decision at the conclusion of the hearing:

Hearing to consider an objection to a TEN

Hearing to consider review a premises licence following closure order

15.0 Record of Proceedings

- 15.1 A record of the hearing shall be made by the Licensing Authority and kept for six years from the date of the determination or, where an appeal is brought against the determination of the Licensing Authority, the record must be kept for six years from the date of disposal of the appeal. The Licensing Authority may also record the proceeding through audio tape.

16.0 Appeals

16.1 Either those who have made an application or those who have made a representation on an application may have the right to appeal the Sub-Committees decision to the Magistrates' Court.

16.2 An appeal must be commenced within 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision.

17.0 Irregularities

17.1 Proceedings will not be rendered void only as a result of failure to comply with any provision of the Hearing Regulations.

17.2 Where the Licensing Authority considers that any person may have been prejudiced as the result of an irregularity relating to the Hearing Regulations, it will take such steps, as it thinks fit to cure the irregularity, before reaching its determination.

17.3 Clerical mistakes in any document recording a determination of the Licensing Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Licensing Authority.

The following information and procedures are associated with this document

Legislation

- The Licensing Act 2003 (Hearings) Regulations 2005:
 - http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi_20050044_en.pdf

Hearing Procedures

- New / Variation of Premises or Club Licence
- TENs
- Review

Hearing Guidance

General guidance to attendees

HEARING PROCEDURE: NEW / VARIATION OF PREMISES OR CLUB LICENCE

Introduction and Preliminary remarks

1. The representative of Democratic Services will introduce themselves and start the meeting including dealing with the election of the Chairman
2. The following parties will introduce themselves:
 - The Chairman of the Sub-Committee
 - Members of the Sub-Committee
 - Council Officers (legal advisor, licensing officer and any other Council officers attending)
3. The Chairman will ask for any declarations of interest.
4. The Chairman will announce if the hearing is to be held in public or private session.
5. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
 - Applicant and any person representing or assisting them
 - Responsible Authorities that have made a relevant representation
 - Other Persons who have made a relevant representation. If a spokesperson has been appointed / nominated for a group they should be identified.
6. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
7. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
8. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

Statement by the Licensing Officer

9. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.
10. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Persons
- Other Council officers
- Sub-Committee

11. The licensing officer may respond to any new issues raised.

Case for the Applicant

12. The applicant (or their representative) to present their case in support of the application.

13. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Responsible Authorities
- Other Persons
- Other Council officers
- Sub-Committee

14. The applicant (or their representative) may then respond to any new issues raised

Case for Responsible Authorities

15. The representative of each Responsible Authority will be invited in turn to present the views of their organisation.

16. Each other party (if permitted by, and via the Chairman) may then ask questions of the representative based on what they have heard. This will be in the following order:

- Applicant
- Other Persons
- Other Council officers
- Sub-Committee

17. The representative may then respond to any new issues raised.

Case for the Other Persons

18. Those who have made representations will be invited to present their views.
19. If a spokesperson has agreed to speak on behalf of several people, all of those they represent may add any further points after.
20. Each Other Person (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:
 - Applicant
 - Responsible Authorities
 - Other Persons
 - Other Council officers
 - Sub-Committee
21. The other party may then respond to any new issues raised.

Discussion about Conditions

22. If it appears to any party that one or more of the issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward the suggestion(s) to the Chairman at this stage. All other parties are to be given an opportunity to comment and express a view on any proposed condition.

Summary

23. Any party wishing to summarise their views may do so, in the order in which they presented their case. This will usually be as follows:
 - Applicant
 - Responsible Authorities
 - Other Persons

The Decision

24. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from Legal Services and Democratic Services.
25. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.

26. The Chairman to announce the Sub-Committee's decision if one has been made. This can include giving reasons (if finalised). If the Sub-Committee is minded to grant with the addition of conditions they may give the general of the condition and the intention of them. Specific wording in line with the Sub-Committee's direction may then be delegated to the licensing officer to prepare and send out **with the licence**.
27. The Council's legal officer will then outline the rights of appeal.
28. The decision and rights of appeal will be confirmed in writing by the **legal officer**.

HEARING PROCEDURE: TEMPORARY EVENT NOTICES (TENS)

Introduction and Preliminary remarks

1. The representative from Democratic Services will introduce themselves and start the meeting including dealing with the election of the Chairman
2. The following parties will introduce themselves:
 - The Chairman of the Sub-Committee
 - Members of the Sub-Committee
 - Council Officers (legal advisor, democratic services officer and licensing officer)
3. The Chairman will ask for any declarations of interest.
4. The Chairman will announce if the hearing is to be held in public or private session.
5. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
 - Premises User (the person who has submitted the TEN) and any person representing or assisting them
 - Responsible Authorities that have issued an objection notice
6. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
7. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
8. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

Statement by the Licensing Officer

9. The Chairman will ask the licensing officer to summarise the matter under consideration and present the salient points of the report.
10. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:
 - Premises User
 - Responsible Authorities

- Other Council officers
- Sub-Committee

11. The licensing officer may respond to any new issues raised.

Case for the Premises User (the person who has submitted the TEN)

12. The Premises User (or their representative) to present case in support of the TEN.

13. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Responsible Authorities
- Other Council officers
- Sub-Committee

14. The Premises User (or their representative) may then respond to any new issues raised.

Case for Responsible Authorities (Police and/or Environmental Health)

15. The representative of each Responsible Authority will be invited in turn to present the views of their organisation.

16. Each other party (if permitted by, and via the Chairman) may then ask questions of the representative based on what they have heard. This will be in the following order:

- Premises user
- Other Council officers
- Sub-Committee

17. The representative may then respond to any new issues raised.

Summary

18. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Premises User
- Responsible Authorities

The Decision

19. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from Legal Services and Democratic Services.
20. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.
21. The Chairman to announce the Sub-Committee's decision and the reason for the decision.
22. The Council's legal officer will then outline the rights of appeal.
23. The decision and rights of appeal will be confirmed in writing by the legal officer.

HEARING PROCEDURE: REVIEW OF PREMISES

Introduction and Preliminary remarks

1. The representative from Democratic Services will introduce themselves and start the meeting including dealing with the election of the Chairman
2. The following parties will introduce themselves:

- The Chairman of the Sub-Committee
 - Members of the Sub-Committee
 - Council Officers (legal advisor, democratic services officer and licensing officer)
3. The Chairman will ask for any declarations of interest.
 4. The Chairman will announce if the hearing is to be held in public or private session.
 5. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
 - Applicant for review and any person representing or assisting them
 - The holder of the Premises Licence and any person representing or assisting them
 - Responsible Authorities that have made a relevant representation
 - Other Persons who have made a relevant representation. If a spokesperson has been appointed / nominated for a group they should be identified.
 6. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
 7. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
 8. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

Statement by the Licensing Officer

9. The Chairman will ask the licensing officer to summarise the matter under consideration and present the salient points of the report.
10. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:
 - Applicant for review
 - Holder of premises licence
 - Responsible authorities

- Other Persons
- Other Council officers
- Sub-Committee

11. The licensing officer may respond to any new issues raised.

Case for the Applicant of the Review

12. The applicant (or their representative) to present case in support of the application.

13. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Holder of the Premises Licence
- Responsible authorities
- Other Persons
- Sub-Committee

14. The applicant (or their representative) may then respond to any new issues raised

Case for the Premises Licence Holder

15. The Premises Licence holder (or their representative) will be invited to present their response to the review application.

16. Each other party (if permitted by, and via the Chairman) may then ask questions of the Premises Licence holder (or their representative) based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Persons
- Other Council officers
- Sub-Committee

17. The Premises Licence holder may then respond to any new issues raised.

Case for Responsible Authorities

18. The representative of each Responsible Authority will be invited in turn to present the views of their organisation.

19. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Premises Licence holder
- Other Persons
- Other Council officers
- Sub-Committee

20. The representative may then respond to any new issues raised.

Case for the Other Persons

21. Those who have made representations will be invited to present their views.

22. If a spokesperson has agreed to speak on behalf of several people, all of those they represent may add any further points after.

23. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Premises Licence holder
- Other Council officer
- Sub-Committee

24. The other party may then respond to any new issues raised.

Discussion about Conditions

25. If it appears to any party that one or more of the issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward the suggestion(s) to the Chairman at this stage. All other parties are to be given an opportunity to comment and express a view on any proposed condition.

Summary

26. Any party wishing to summarise their views may do so, in the order in which they presented their case. This will usually be as follows:

- Applicant
- Premises Licence holder
- Responsible Authorities
- Other Persons

The Decision

27. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and Democratic services.

28. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.

29. The Chairman to announce the Sub-Committee's decision if one has been made. This can include giving reasons (if finalised). If the Sub-Committee is minded to place on the licence additional conditions they may give the general of the condition and the intention of them. Specific wording in line with the Sub-Committee's direction may then be deferred to the Licensing Officer to prepare and send out with the amended licence.

30. The Council's legal officer will then outline the rights of appeal.

31. The decision and rights of appeal will be confirmed in writing by the legal officer.

General guidance to attendees

RIGHTS OF A PARTY

As a party to the hearing, you are entitled to:

- Attend the hearing
- Be assisted or represented at the hearing by another person, whether or not that person is legally qualified

- Give further information in support of your application or representation in circumstances where the Licensing Authority has given you notice that clarification on a point is required
- Question any other party if given permission to do so by the Licensing Authority
- Address the Licensing Authority

FAILURE TO ATTEND THE HEARING

- If you or your representative are unable to attend the hearing, the hearing may proceed in your absence (in which case the Licensing Authority will consider the application, representation or TEN made by you)
- Alternatively, the Licensing Authority may, where it is in the public interest, adjourn the hearing to another date and notify all parties

HEARING PROCEDURE

- The procedure to be followed at the hearing is contained in the document 'Protocol and Procedure for Licensing Sub-Committee Hearings'.

ADDITIONAL INFORMATION

Documents

- You may produce documents or other information in support of your application, representation or TEN (as applicable) either before the hearing, or with the consent of all the other parties, at the hearing
- In considering the representations or notice made by you, the Licensing Authority may take into account any documents produced in accordance with this provision.

Submissions

- You must confine your submission at the hearing to the representations you have made within the statutory prescribed period. You may not raise new representations at the hearing.

Time

- There is no set time limit for verbal submissions at the hearing. The Chairman or Council's legal advisor may move the discussion on if you begin to repeat yourself or introduce points that are not relevant.

- Where a number of parties attending a hearing wish to make the same or similar points, the Chairman may invite parties to appoint a spokesperson (if they have not done so already). You will then be entitled to add anything you consider the spokesperson has omitted.

Disruptive behaviour

- Any person attending the hearing who is deemed by the Licensing Authority to be behaving in a disruptive manner will be required to leave the hearing.

DETERMINATION AND NOTIFICATION OF DECISION

- The Licensing Sub-Committee will try to make its decision on the same day as the hearing whenever possible
- The Licensing Authority will notify each party in writing of its determination and the rights of appeal

ADDITIONAL INFORMATION

Should you require any further information about the hearing process please contact the Licensing Authority on 01884 255255

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Report for: Licensing Committee

Date of Meeting:	28 June 2024
Subject:	LICENSING UPDATE REPORT
Cabinet Member:	David Wulff, Cabinet Member for Quality (Cost) of Living, Equalities and Public Health
Responsible Officer:	Simon Newcombe – Head of Housing and Health
Exempt:	No
Wards Affected:	All wards
Enclosures:	None

Section 1 – Summary and Recommendations

To provide the Committee with an update on Licensing Act 2003 activity undertaken by the Licensing Team in the second half of 2023/24.

To provide an overview of legislative and guidance changes and make recommendations where these have an impact on service delivery.

Recommendations:

- 1. The Committee are asked to provide feedback on the proposal at section 4.2 of this report, suggesting a quarterly Teams briefing to support the established quarterly Licensing Bulletin.**
- 2. That Committee approve a minor review of the Gambling Act 2005 Statement of Principles and subsequent 6-week consultation during August and September 2024 as outlined in section 4.6 of this report.**

Section 2 – Report

1 Introduction

- 1.1 This report provides overview of the activity carried out by the Licensing Team during the second half of 2023/24, in respect of the following:**

- regulated entertainment;
- late night refreshment;
- gambling; and
- all aspects of alcohol licensing.

It also provides an overview of changes to legislation and guidance affecting the delivery of the Licensing service.

2 Service Delivery

Contextual data

- 2.1 The Licensing Team is responsible for issuing a range of premises licences and personal licences under the Licensing Act 2003, this is broken down as below
() = variance on last report:

Type of Licence	Total active	Issued quarter 1&2 2023/24	Surrendered or suspended
<i>Personal Licence</i>	1423 (+14)	19	0
<i>Premises With alcohol</i>	305 (-2)	31	10
<i>Premises with no alcohol</i>	63 (+1)	2	0
<i>Club premises with alcohol</i>	37 (no change)	3	0

- 2.2 Mid Devon currently has 405 premises licensed under the Licensing Act 2003. The Licensing Service dealt with applications from 9% of the licensed premises within the District in the second half of the year, this will include new applications, and amendments via minor and full variations.

- 2.3 A Temporary Event Notice (TEN) is a notification given by an individual to the Licensing Authority where it is proposed to use a premises for one or more licensable activities during a period not exceeding 168 hours. They can be used to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time.

- 2.4 The number of Temporary Event Notices (TEN) issued within the last financial year:

Temporary Event Notices	Standard TEN Qrt 3 & 4	Late TEN Qrt 3 & 4
With alcohol	131	34
No alcohol	10	0

- 2.5 A total of 448 TENS were received during 2023/2024. A 19% increase on 2022/2023.

2.6 Mid Devon has the following licences under the Gambling Act 2005:

Type of permit/ Licence	Number active within District
Adult Gaming centres	2
Betting premises	4
Gaming machine permit	2
Club gaming permit	2
Club machine permit	2
Licensed premises gaming permit	5
Gambling machine notifications	74
Small society lotteries	82

2.7 The number of small society lotteries has increased by 15% since the last report.

Inspections

2.8 Licensing Officers have conducted 17 licensed premises visits with a purpose of determining if the premises are compliant with licence conditions. An inspection may be initiated as a result of a complaint, or by using a risk rating that is applied to premises to identify those that are a priority for inspection.

2.9 Two of these inspections were carried out jointly with Devon and Cornwall Police, where information and intelligence suggested that there was a non-compliance with licence conditions and that a multi-agency approach was more appropriate.

Speed of processing and determination of applications

2.10 The Licensing Service ensures effective consultation on all applications received and is focused on determining applications within the legislative deadlines. All applications were determined within the deadlines over the period.

3 Hearings and Enforcement

Hearings

3.1 There have been no hearings relating to Licensing Act or Gambling Act Licence applications/ premises.

Enforcement

3.2 No formal enforcement action was recorded during the second half of 2023/24. Officers apply a graduated approach to enforcement, initially working to resolve issues of non-compliance informally.

4 Legislative and Policy updates

Licensing Bulletin

4.1 A Licensing Bulletin is circulated quarterly to Members of the Licensing and Regulatory Committee. The report is prepared by Legal Services and contains

useful information of recent and upcoming changes to Licensing legislation, guidance and case law, as well as case studies from other Local Authorities.

- 4.2 Licensing officers also propose a quarterly Teams meeting to support the briefing, delivered jointly by the Licensing and Legal Services, as an opportunity to ask any questions and explore the implications of the changes on the service and Authority.

Review of Statement of Licensing Policy

- 4.3 The fifth review of the Council's Statement of Licensing Policy has been carried out and a separate report is being presented to this Committee with a recommendation for a 6-week consultation on the proposed changes.

Review of Gambling Act 2005 Statement of Principles

- 4.4 There is a statutory requirement for Licensing Authorities to publish a Gambling Act 2005 Statement of Principles every 3 years. The current Statement covers 2022 – 2025 and a revised Statement will need to be published 4 weeks prior to the implementation date of 31st January 2025.

- 4.5 The Gambling Commission will be publishing revised guidance during 2025 and it is anticipated that changes to the Statement of Principles will be required following this update. It has therefore been suggested by the Gambling commission that Licensing Authorities should consider minimal change to their Statement of Principles, where they remain fit for purpose, during the current review. An additional review will then be carried out following the guidance update.

- 4.6 It is proposed that a minor review of the Statement be carried out, working on the following outline timescale: review by July 2024, a short consultation will be required from August 2024. The revised Statement and consultation responses will then be brought to Licensing Committee with a recommendation to present to Full Council to approve the Statement prior to 19th December 2024. This will then be ready to publish 4 weeks prior to implementation on 31st January 2025.

Pavement licensing made permanent

- 4.7 The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the Business and Planning Act (BPA) 2020 for Pavement Licensing, with a number of changes.

- 4.8 Permission to place objects or structures on the highway are otherwise granted primarily under Part 7A of the Highways Act 1980. The fee for the Highways Act process varies between local authorities, and there is a minimum 28 calendar day consultation period. The Business and Planning Act process provides a cheaper, easier, and quicker way for businesses to obtain a licence and cover street furniture only.

- 4.9 Changes include the duration of the Licence (maximum 2 years), an increased consultation period for comments/objections (14 days), followed by an

increased determination period for licensing authorities (14 days) and enforcement powers for local licensing authorities.

- 4.10 The changes also increase the maximum fee that can be charged for a Pavement Licence. Fees are set locally, and it is for the licensing authority to determine the appropriate charge. A separate report will be presented to Full Council covering to administration of the service including setting of fees.

Consultation on the proposed changes to Martyn's Law standard premises

- 4.11 A six week consultation was carried out by the Home Office, seeking views to make sure the requirements of Martyn's Law do not place undue burdens on smaller businesses, while still protecting the public.
- 4.12 The changes being consulted on included a new 'reasonably practicable' approach better suited to the wide range of organisations that will be within the scope of standard tier. The revised approach is designed to be low to no financial cost, with associated costs largely driven by the time taken to communicate them to staff.
- 4.13 A Martyn's Law regulator will be established to monitor compliance and advise premises within scope of the legislation. Premises within standard tier will be required to notify the regulator that they are within the scope of this legislation.
- 4.14 Following the conclusion of the consultation process, the bill will be introduced as soon as parliamentary time allows.

5 Recommendations

- 5.1 In accordance with the above, the following recommendations are made:
1. The Committee are asked to provide feedback on the proposal at section 4.2 of this report, suggesting a quarterly Teams briefings to support the established quarterly Licensing Bulletin.
 2. That Committee approve a minor review of the Gambling Act 2005 Statement of Principles and subsequent 6-week consultation during August and September 2024 as outlined in section 4.6 of this report.

Financial Implications: All licences for the areas mentioned above have a charge associated with them. The income from the licences is used to offset the running of the Service. The Service is not self-funding as the Licensing Act 2003 and Gambling Act 2005 fees are set at a national level and have not been increased for many years therefore do not fully cover costs. Where possible the fee income is used to reduce the contribution of the general fund to the running of the Service.

Legal Implications: There are various regulations that govern the range of applications administered by the Licensing Team. These detail a range of duties and statutory deadlines, as well as policy and procedural requirements.

Risk Assessment: Provision of the Licensing Service is a statutory obligation. If resources for the Team are not available there is a risk that the Council is unable to meet its statutory duties in relation to licensed activities. This would put the health and safety of residents at risk if they accessed a Service that did not meet licensing standards.

Impact on Climate Change: There is no direct impact on climate change as a result of this report.

Equalities Impact Assessment: An equality impact assessment is not required in respect of this update report.

Relationship to Corporate Plan: This report links directly to the Licensing Authority functions of the Council with the primary aim of protecting public safety and ensuring the well-being of our community and licensed service users. It therefore contributes to the priority of Community within the Corporate Plan.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 19 June 2024

Statutory Officer: Maria de Leiburne
Agreed on behalf of the Monitoring Officer
Date: 19 June 2024

Chief Officer: Simon Newcombe
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 24 May 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 19 June 2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Harriet Said, Team Leader (Commercial), Public Health or Simon Newcombe, Head of Housing and Health
Email: hsaid@middevon.gov.uk / snewcombe@middevon.gov.uk
Telephone: 01884 255255

Background papers:

[Pavement licences: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/pavement-licences)