

EAST DEVON DISTRICT COUNCIL



# **LICENSING POLICY**

**LIQUOR, PUBLIC ENTERTAINMENT  
& LATE NIGHT REFRESHMENTS**

**UNDER THE  
LICENSING ACT 2003**

**For the period  
7 January 2011 to 6 January 2014**

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## FOREWORD

**This foreword does not form part of the policy and is for information purposes only.**

Welcome to East Devon District Council's Licensing Policy statement for 2011 - 2014. Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act. The Licensing Authority will keep the policy statement under constant review and make such revisions to it, as it considers appropriate. Where revisions are made, the licensing authority shall publish a statement of revisions or a revised licensing policy statement.

The revised Policy is published following a public consultation during the latter half of 2010 and adoption by Full Council on the 8 December 2010. It is effective from the 7 January 2011 for the following three years. Whilst much of the document has remained unchanged, amendments to the current law and new laws, have all had an impact on the policy.

The key reasons for the 2010 review were:

- To update the document in accordance with amended Government Guidance and changes in legislation
- A re-arrangement of sections to avoid duplication
- The removal of redundant sections
- The rewording of text to provide better clarification

The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer.

Some local residents may be affected by an increase in the concentration of entertainment uses and experience longer hours of operation. It is the duty of the licence operator to ensure that their licensable activity does not unduly affect these residents and the licensing objectives are met.

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

The Act is intended to match greater freedom and flexibility within sensible boundaries, with tough and uncompromising powers for the police, courts and licensing authorities to deal with any individuals or businesses failing to be socially responsible and abusing these freedoms.

The aim of the policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. East Devon District Council, in adopting this Licensing Policy, recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of well run entertainment premises to the local economy and vibrancy of the District. To achieve this aim the Council is committed to partnership working with police, fire service, and local businesses, licensing trade, residents and others, towards the promotion of the objectives as set out in this policy.

This policy provides information and guidance to licence applicants, interested parties and responsible authorities on the general approach that the Licensing Authority will take in terms of licensing. Although each application will be considered individually on its own merits, the Council in adopting this licensing policy is indicating that wider considerations other than the fitness of the applicant and suitability of premises will be taken into account in making an appropriate decision.

In accordance with the statutory procedures, a review of this policy will take place periodically to take into account information collated over a period of time, coupled with the outcomes of initiatives relating to alcohol and entertainment at central and local government level.

In the preparation and publication of this policy East Devon District Council as the Licensing Authority has had regard to the guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Licensing Act 2003, including the amended guidance published 30 March 2010.

Nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.

A copy of the policy together with other licensing related information may be viewed at the licensing page of the Council website. Alternatively advice and copies of the policy is available by contacting the Licensing Team via email to [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or by telephone to 01395 517410/517411.

Should you have any questions or queries about this document you may write to the Licensing Service at:

East Devon Licensing Authority  
Council Offices  
Knowle  
SIDMOUTH  
EX10 8HL

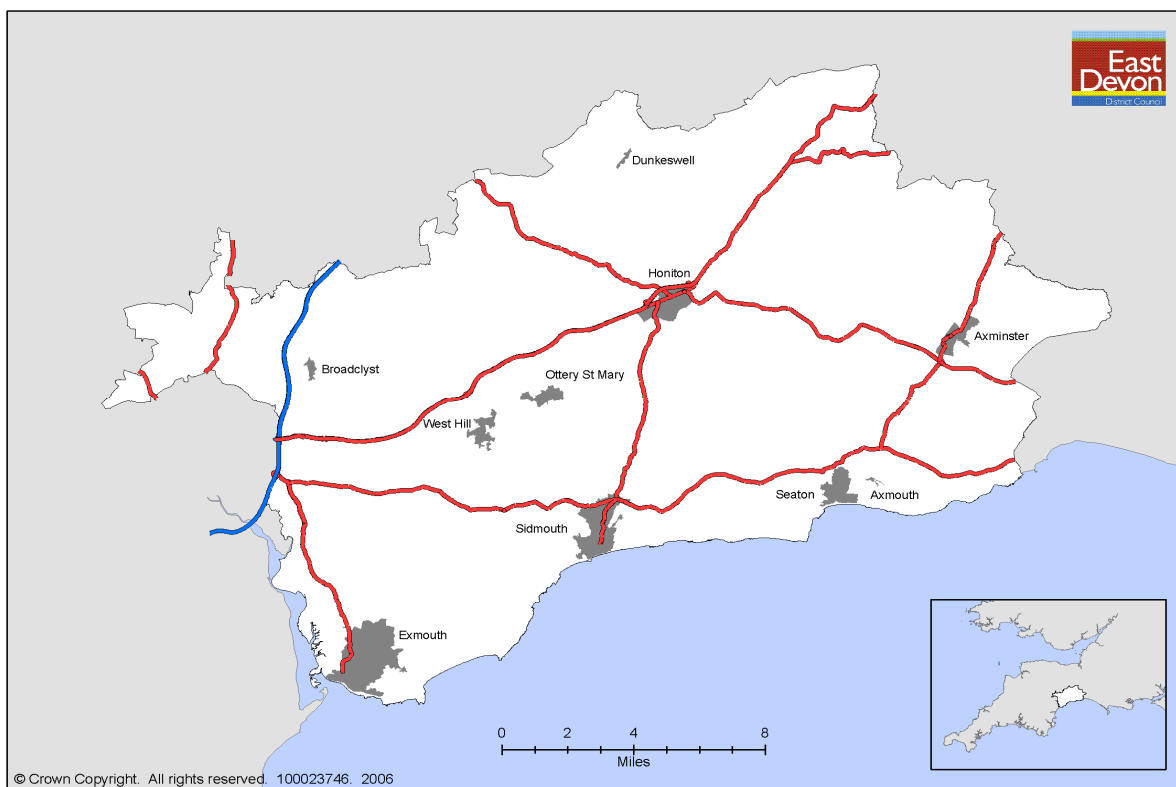
Or contact us by:  
Phone: 01395 517410/517411  
Email: [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

## The Geographical Area

East Devon is one of eight Devon districts and, in population terms, it is the largest in the County.

The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of 1.67 per hectare (the England and Wales average is 3.4). The District is fully parished with 68 Town and Parish Councils. Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.

The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population 35,762), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets.



The District's population currently stands at 135,643: 63,900 males and 68,900 females. The black and ethnic minority population of East Devon is considerably small – only 2.5% (3400 people described their ethnic group as non-white in the 2006 ethnicity census, with Mixed race being the single largest grouping at 1,100). East Devon also has a high percent of elderly residents with 34% of the population over 60 years of age.

The East Devon population is set to grow over the next few years, projected to reach 145,800 in 2016 although this is less than had been projected before the recession. Currently those in 60 to 64 year age band form the largest age group in the district.

The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer.

# Statement of Licensing Policy

## 1. Introduction and Scope

- 1.1 This Statement of Licensing Policy is based upon the Licensing Act 2003 ("the Act") and is in line with the Department of Culture, Media and Sport (DCMS) Guidance to local authorities and takes effect from the 7 January 2011.
- 1.2 The policy relates to all those licensing activities identified as falling within the provisions of the Act wherever they take place, namely: -
- Retail sale of alcohol
  - Supply of alcohol to club members
  - Provision of 'regulated entertainment' - to the public, to club members or with a view to profit
    - A performance of a play
    - An exhibition of a film
    - An indoor sporting event
    - Boxing or wrestling entertainment
    - A performance of live music
    - Any playing of recorded music
    - A performance of dance
    - Provision of facilities for making music
    - Provision of facilities for dancing
  - The supply of hot food and/or hot drink from any premises including food stalls between 11.00 pm and 5.00 am [Late Night Refreshment].
  - Provision of facilities for enabling persons to take part in entertainment consisting of:
    - Making music;
    - Dancing;
    - Entertainment of a similar description to making music or for dancing.
- 1.3 The Licensing Act 2003, section 5 requires a licensing authority to prepare and publish a Statement of Licensing Policy every three years.
- 1.4 Such a policy must be published before the authority carries out any function in respect of individual applications made under the act.
- 1.5 The purpose of this policy document is to assist the licensing authority in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the District with some measure of certainty.
- 1.6 To achieve the licensing objectives the Council will use its full range of powers and engage all relevant responsibilities including its planning and environmental health controls, crime and disorder policies and powers. The authority will enter appropriate partnership arrangements, working closely with the police, the fire authority, trading standards, local businesses, community representatives and local people in meeting these objectives. Neighbouring authorities and town and parish councils will be consulted where appropriate.

- 1.7 The licensing authority will keep the policy statement under constant review and make such revisions it feels appropriate. Where revisions are made, the licensing authority will publish a statement of revisions or a revised licensing policy statement. Any major changes, unless they are the result of legislation changes will normally be preceded by public consultation.
- 1.8 The Act makes provision for the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshments (premises licence), the supply of alcohol or the provision or regulated entertainment in certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notice).

## **2. Consultation**

- 2.1 Before determining this policy statement the licensing authority has consulted with the following: -
- the chief officer of police
  - the fire authority
  - persons/bodies representative of local premises licence holders
  - persons/bodies representative of local club premises certificate holders
  - persons/bodies representative of local personal licences
  - persons/bodies representative of businesses and residents in the area
- 2.2 Proper weight has been given to the views of all consulted prior to this policy statement taking effect.
- 2.3 Unless changed by future legislation the policy statement will remain in existence for a maximum period of 3 years and will then be subject to review and further consultation.

The licensing authority may consult beyond the statutory requirements, and seek comments from particular bodies or representatives of groups associated with the entertainment industry, the legal profession, health authority and the welfare of children. Those consulted include a body competent to advise on child protection, Weights and Measures (Trading Standards), Health and Safety Executive, Environmental Health, Planning and Building Control, Maritime and Coast Guard Agency and the Environment Agency.

**Please note:** The text within the shaded boxes is intended to provide information on the legal framework and statutory guidance but does not form part of the policy itself.

### **3. Licensing Objectives and Related Legislation**

- 3.1 The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are: -
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance and
  - the protection of children from harm
- 3.2 These objectives are the only matters to be taken into account in determining the application and any conditions attached must be necessary to achieve the licensing objectives. The legislation requires if there are no relevant representations then an application must be granted and will be subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.
- 3.3 A Licence will only be granted where the licensing authority is satisfied that these objectives have been met.
- 3.4 The Licensing Authority requires applicants to address the licensing objectives in their operating schedules having regard to the type of premises, the licensable activities to be provided, the operational procedures, and the nature of the location and the needs of the local community. The kind of standards that the local authority will expect to see are those which take into account measures including:
- 3.4.1 **Prevention of Crime and Disorder –**
- The use of toughened glass/polycarbonate or other plastic/non glass bottles/receptacles
  - Measures to prevent open bottles and other drinks containers being carried from premises
  - Restrictions on drinks promotions
  - Measures to prevent binge drinking
  - Marketing promotions that do not encourage excessive consumption and should be socially responsible.
  - Participation in pubwatch schemes or licensee associations and attendance at meetings
  - Use of the appropriate number of security personnel and stewards ensuring effective control of venue at all times
  - Training staff in crime prevention measures
  - Search procedures
  - Use of CCTV inside and outside the premises ensuring that digital systems comply with Home Office guidance and the Authority's own CCTV policy
  - Lighting
  - For new premises, designing out crime
  - Quality of supervision and surveillance in premises
  - Regular checks by staff of all public areas including toilets
  - Assessment of customer profiles ensuring effective management of customers both inside and in outside smoking/external seating areas
  - Anti-discrimination policies and unlawful practices including homophobia and racism
  - And any other measures deemed appropriate

### 3.4.2 Public Safety –

- Promotion of sensible drinking
- Awareness and measures to prevent ‘drink spiking’
- Zero tolerance drug policies including the appropriate use of searching/amnesty boxes to combat drug crime
- Monitoring capacities to a safe level with management controls ensuring safe capacities are maintained particularly with premises with more than one floor or zone (including electronic counting where necessary)
- Special arrangements for large events
- Security Personnel/Stewards
- Traffic Management
- Crowd Management
- Noise exposure
- Customer profile
- Physical environment of premises
- Use of special effects
- Ventilation and temperature
- Removal of glass/bottles to prevent use as weapon
- Where take away food is served measures in place to prevent the build up of grease on pavement surfaces in the vicinity of the premises

### 3.4.3 Prevention of Public Nuisance –

- The nature of the activities
- The location of premises and character of the surrounding area in relation to the proximity to residential and other noise sensitive premises
- Latest admission times
- Provision of welfare facilities for example toilets
- Measures for the limitation of noise emissions from the premises. These may include as appropriate noise limitation devices, sound insulation, whether windows are to be opened, the installation of acoustic lobbies and double glazing
- Measures to deal with queuing, where necessary
- Use of outdoor areas
- Odour and light nuisance
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated cab firms, notices in the premises requesting customers to respect neighbours
- Winding down periods particularly in public houses and night clubs etc
- Disposal of waste, particularly glass
- Use and maintenance of plant, including air extraction and ventilation systems
- Litter collection in vicinity including discarded flyers and other promotional material
- Noise from deliveries/collections
- Traffic Management
- Measures to supervise and prevent nuisance to local residence from customers’ use of beer gardens, smoking and external seating areas
- Where take away food is served sufficient litter bins provided in the vicinity of the premises

#### 3.4.4 Protection of Children from Harm –

- Limitation of access dependent on nature of activities
- Use of British Board of Film Classification for film exhibition
- Robust proof of age provisions to include prevention of under 18's entering the premises where appropriate and the requirement for anyone looking under 18 to provide proof of age in the form of a photo driving licence, passport or accredited photo ID card bearing the PASS hologram
- Adoption of the Challenge 21 philosophy
- Requirements for accompanying adults
- Full range of soft drinks

#### **These lists are not exhaustive**

3.5 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 panacea for solving all problems within the community. The Licensing 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, local businesses and local people towards the promotion of the objectives as outlined.

3.6 When making licensing decisions, the licensing authority is bound to apply: -

#### 3.7 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 (When in force)

The Council, when making decisions, has a duty to do all that it reasonably can to prevent crime and disorder, under Section 17 of the Crime and Disorder Act 1998.

The Council is under a duty to protect the rights of residents to privacy and family life under Article 8 of the European Convention on Human Rights. At the same time, the Council must recognise the right of legitimate business to operate their premises without unnecessary restraint.

Public authorities have a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

3.8 The licensing authority will also have regard to other legislation, strategies, policies and guidance in its decision making including: -

### 3.8.1 Legislation

- Crime and Disorder Act 1998
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990
- The Anti-Social Behaviour Act 2003
- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005
- Town and Country Planning Act 1990
- Private Security Industry Act 2001
- Violent Crime Reduction Act 2006

### 3.8.2 Strategies

- Safe . Sensible. Social. The next steps in the National Alcohol Strategy
- 'Safer Clubbing'
- LACORS/TSI Code of Best Practice on Test Purchasing
- East & Mid Devon Community Safety Partnership Plan 2008-11

### 3.8.3 Policies

- Regulatory Compliance Code and the Hampton Principles
- Local Plan
- Local Transport Plan
- Enforcement Policies of each Responsible Authority

### 3.8.4 Guidance

- Guidance to Health and Safety at Outdoor Events (Purple Book)
- Working together on Firework Displays
- Managing Crowds Safely
- The Guide for Small to Medium Places of Assembly
- The Guide for Large Places of Assembly
- Guide to Fire Precautions in Entertainments and Like Premises
- Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- The District Council's guidance/policy in relation to noise nuisance etc.
- Lacors's policy on large events
- Security Industry Authority's guidance on security at large outdoor events

3.9 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the licensing authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

3.10 The licensing authority recognises that the provision of entertainment is a major contributor to the economy of the District, attracts tourists and visitors and is a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.

- 3.11 The licensing authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.
- 3.12 In determining a licence application the overriding principle adopted by the licensing authority is that each application will be determined on its merits in the context of the four licensing objectives, and that unless relevant representations are received from Responsible Authorities or Interested Parties, there is no provision for the Authority to impose conditions on a licence other than mandatory conditions or those proposed within an application. At present there is no provision for the Licensing Authority itself to make representations, and in the absence of relevant representations in respect of an application, the Authority is obliged to issue the licence on the terms sought.

## **4. Conditions**

- 4.1 Licensing relates to the control of licensed premises and other events within the terms of the Act and any conditions, which may be attached to licences, and the various other permissions, which will focus on matters falling within the control of individual licence holders.
- 4.2 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the licensing authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 4.3 Generally it is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. But the Licensing Authority's discretion may be engaged if relevant representations are made and there is an evidential link between the disturbance and the licensed venue.
- 4.4 The licensing authority will avoid imposing disproportionate and over burdensome conditions on premises. The licensing authority does not propose to implement standard conditions on licences across the board but instead, if its discretion is engaged, will attach conditions as appropriate given the circumstances of each individual case.
- 4.5 Conditions will cover the licensing objectives: -
- crime and disorder
  - public safety
  - public nuisance
  - protection of children from harm.
- 4.6 Following relevant representations the licensing authority may impose conditions where existing legislation does not provide adequately for the promotion of the four licensing objectives.

- 4.7 Applicants are encouraged to volunteer their own conditions by way of an operating schedule. The terms of a premises licence and any conditions attached should be clear, not just clear to those having specialised knowledge of licensing, such as the licensing authority or the manager of the premises but also to the independent bystander such as neighbours, who may have no knowledge of licensing at all. The Licensing Authority's experience has shown that many conditions that have been volunteered have been vague, uncertain, imprecise and unenforceable. As an aid to applicants or their representatives to ensure that the operating schedules that are offered are spelt out in clear terms the Licensing Authority has formulated a menu of common conditions which applicants are invited to use when formulating their operating schedules. Further conditions are available in Annex D to the Guidance issued under Section 182 of the Licensing Act 2003 available on the DCMS website at [http://www.culture.gov.uk/what\\_we\\_do/alcohol\\_and\\_entertainment/default.aspx](http://www.culture.gov.uk/what_we_do/alcohol_and_entertainment/default.aspx)

Licensing conditions may only relate to the promotion of the licensing objectives, and to matters which the licence holder can be reasonably expected to control in relation to the carrying on of licensable activities, and these are likely to relate to the premises themselves and the immediate vicinity of those premises.

Conditions will only be attached that are practical, achievable and necessary for the promotion of the licensing objectives and if already provided for in other legislation, they will not be considered necessary in the context of the licensing law.

The Act enables the authority to impose such conditions as are necessary upon premises which have the potential to cause danger to visitors, disturbance to neighbours, crime or harm to children. However, many premises operate without such risks and the authority will reflect this by adopting a lighter touch to the imposition of conditions.

The Authority's menu of conditions suitable for use in Operating Schedules is available on the Licensing pages of the District Council's website at [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk). Alternatively copies are available from the Council's Licensing Office by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephoning 01395 517410

- 4.8 Where a responsible authority or interested party considers the conditions volunteered by an applicant to be inadequate and makes representation to the Licensing Authority then the authority may, following a hearing, attach further conditions or amend volunteered conditions if it is considered appropriate to promote the licensing objectives.

## **5. Cumulative Impact**

- 5.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. This should not however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

- 5.2 The licensing authority may receive representations from either a responsible authority or an interested party (see glossary), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type, making it a focal point and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application. The onus is on any person or organisation making such representations to prove any assertion that the addition of the premises concerned would cause the cumulative impact claimed.
- 5.3 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.
- 5.4 In determining whether to adopt a 'saturation' policy for a particular area the licensing authority may, among other things: -
- gather evidence or identification of serious and chronic concern from a responsible authority or local residents about nuisance and disorder
  - identify the area from which problems are arising and the boundaries of that area
  - make an assessment of the causes
  - adopt a policy about future applications for premises within that area.
- 5.5 If a 'saturation' policy is adopted it will be reviewed regularly to assess if it is needed any longer or should be expanded.
- 5.6 Where there is evidence that a particular area of the District is already suffering adverse effects arising from the concentration of late night premises, or that residential areas are under stress, this will be taken into account in determining any further applications for premises within the area identified.

As such the licensing authority may take into account matters such as: -

- The character of the surrounding area
  - The impact of the licence on the surrounding area, both individually and cumulatively with existing licences
  - The nature and character of the proposed operation.
- 5.7 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 controls
  - ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others

- powers to designate parts of the District as places where alcohol may not be consumed publicly
  - confiscation of alcohol in designated areas
  - police enforcement of the law with regard to disorder and anti-social behaviour
  - police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise
  - the power of police, local businesses or residents to demand a review of the licence
  - enforcement action against those selling alcohol to people who are already drunk.
- 5.8 The licensing authority may address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the District.

Where the number, type and density of licensed premises are unusually high, serious problems of nuisance and disorder have sometimes arisen or have begun to arise outside or some distance from the licensed premises. This has been described as the cumulative impact of the increasing capacity of all premises taken together.

It is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together is greater in these cases than the usual impact from customers of individual premises.

In these circumstances, a licensing authority may receive representations from a responsible authority or interested party that an area is becoming saturated with certain premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. Such representation would need to be based on evidence.

This might be creating exceptional problems of disorder and nuisance over and above the impact from any individual premises. If this is the case it might lead the licensing authority to consider, through consultation, if adopting a special policy not to grant further licences would be one solution in helping to control the problem.

Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the control of the licence holder but is still a key aspect of such control and will be part of a holistic approach to the management of the evening economy in towns and city centres.

## 6. Licensing Hours

- 6.1 The licensing authority will deal with the issue of licensing hours on the individual merits of each application. When the 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 Interested Parties on the basis of the licensing objectives. However, when issuing a licence

with hours beyond midnight higher standards of control will generally need to be included in operating schedules to promote the licensing objectives especially for premises which are situated near residential areas.

- 6.2 There is no presumption within the Act for longer opening hours over objections from local residents and businesses located in the vicinity of licensed premises but the licensing authority will consider licensing hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. 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 operational 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.
- 6.3 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.
- 6.4 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.
- 6.5 The Licensing Authority does not seek to adopt fixed terminal hours in designated areas (known as “Zoning”), as this can lead to the significant movement of people across boundaries in search of premises opening later.
- 6.6 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

Fixed and artificially early closing times promote, in the case of sales of alcohol, rapid binge drinking close to closing times and are considered a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously.

This creates excessive pressures at places where fast food is sold or public or private transport is provided.

This in turn can produce friction, particularly between young people, and gives rise to disorder and peaks of noise and other nuisance.

## **7. Authorisation to Sell Alcohol**

- 7.1 Where premises are licensed to sell or supply alcohol the licensing authority will expect a Personal Licence Holder to normally be present on the premises at all times when there are sales or the supply of alcohol taking place. However if arrangements are made in advance a Personal Licence holder may authorise another person to sell alcohol.
- 7.2 The Licensing Authority will expect the Personal Licence holder who authorises another person to sell alcohol to ensure that:
- (a) the person is authorised in writing by the Personal Licence holder on whose behalf the person is selling or supplying alcohol;
  - (b) the authorisation should specify the acts that may be carried out by the authorised person;
  - (c) the person should be clearly identifiable;
  - (d) there is in place sensible arrangements on a reasonably regular basis for the Personal Licence holder to monitor the activities that they have authorised.
- 7.3 The Designated Premises Supervisor remains responsible for the day to day running of any premises licensed to sell alcohol.

## **8. Children and Licensed Premises**

- 8.1 The licensing authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. 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.
- 8.2 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
- 8.3 In such circumstances as listed in paragraph 8.2 above the licensing authority would expect for the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule, then if relevant representation are made the licensing authority will consider making such restrictions as are deemed necessary to meet the licensing objectives.
- 8.4 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

- 8.5 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).
- 8.6 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.
- 8.7 The licensing authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. In such circumstances it may sometimes be necessary to impose a complete ban, or require limitations on the hours when children may be present, age limitations or conditions requiring an accompanying adult, exclusions during certain activities of persons under 18.
- 8.8 In relation to exhibition of films, a mandatory condition will apply, requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification.
- 8.9 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.
- 8.10 The Licensing Authority recognises Children & Young People's Services of Devon County Council as being competent to advise on matters relating to the protection of children from harm.

## **9. Enforcement**

- 9.1 The licensing authority has established protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.
- 9.2 In general, action will only be taken in accordance with agreed enforcement principles and in line with the licensing authority's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

## **10. Integrating Strategies and the Avoidance of Duplication**

- 10.1 By consulting widely prior to this policy statement being published, the licensing authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.
- 10.2 The licensing authority will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination.
- 10.3 Where any protocols to be agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which lead to disorder and disturbance the licensing authority will aim to inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.
- 10.4 The licensing authority's Licensing Committee will keep itself informed and consider wider issues which may need to be given due consideration when making licensing decisions. These issues may include:-
- needs of the local tourist economy
  - cultural strategy for the area
  - employment situation in the area and the need for new investment and employment where appropriate
- 10.5 The licensing authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there should be clear separation of the planning and licensing regimes to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.
- 10.6 This policy is not intended to duplicate existing legislation and other regulatory regimes that place duties on employers and operators. For example Health & Safety at Work etc Act 1974, Environmental Protection Act 1990, Disability Discrimination Act 1995, Building Regulations and the Regulatory Reform (Fire Safety) Order 2005.

## **11. Other Legislation**

- 11.1 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.
- 11.2 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.
- 11.3 The grant of a licence does not imply the approval of other legislative requirements.

## **12. The Licensing Process and Delegation of Functions**

- 12.1 The powers of the Licensing Authority under the Act may be carried out by the Authority's Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority. The Licensing and Enforcement 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 DCMS Guidance issued under Section 182 of the Licensing Act. A list of delegations is available from the Licensing Authority.
- 12.2 Many of the licensing procedures will be largely administrative and un-contentious. In the interests of efficiency and effectiveness officers will generally carry these out.
- 12.3 Where there are no representations on an application to the grant of a premises licence or club premises certificate these matters will be dealt with by officers in order to speed matters through the system and in the interests of efficiency and cost.
- 12.4 Delegated officers can decide whether representations should be rejected in that they are frivolous or vexatious. Such decisions cannot be appealed in the magistrates' courts but can be challenged by way of a judicial review.
- 12.5 Applications where there are relevant representations will be dealt with by a committee or a subcommittee of the licensing authority, as will any relevant application for the review of a licence.
- 12.6 The licensing authority will expect individual applicants to address the licensing objectives in their operational schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 12.7 Except where complete applications are made online in accordance with the EU Services Directive all applicants will be required to copy their applications to the responsible authorities. Full details of which are available in the licensing pages of the Authority's website or from its Licensing Service.
- 12.8 When determining applications, the licensing authority will have regard to any guidance issued by the DCMS. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration will be balanced against the wider benefits to the community.
- 12.9 Responsible Authorities or Interested Parties may lodge an application for review of a licence/certificate with the Licensing Authority at any time. Where a Review application is made, the Licensing Authority encourages all parties to work in partnership to achieve the promotion of the licensing objectives. The Licensing Authority expects that Responsible Authorities will give licence holders early warning, where possible, of any concerns identified at a premises.
- 12.10 Decisions made by the licensing committee can be appealed to the magistrates' court within 21 days. Applicants, responsible authorities and interested parties all have the right of appeal. Delegation of functions follow the DCMS Guidance issued under Section 182 of the Licensing Act.

### **13. Cultural Strategy**

- 13.1 The licensing authority recognises that, as part of implementing its cultural strategy, proper account will be taken of the need to encourage and promote entertainment including live music, dancing and theatre for the wider cultural benefit of the community. Conditions to be imposed on relevant licences will not discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.
- 13.2 The licensing authority acknowledges the advice received from DCMS that the views of vocal minorities should not be allowed to predominate over the general interest of the community.
- 13.3 In the exercise of its licensing functions the Licensing Authority will ensure that it does not apply direct or indirect measures that deter live music (in particular those promoting performances that can be classified as “non rock”, pop, modern music or similar music forms), dancing and theatre by imposing disproportionate licensing conditions.
- 13.4 The impact of this policy on regulated entertainment, particularly live music and dancing, will be monitored. Where there is an indication that such events are being deterred by licensing requirements the policy will be revisited with a view to investigating how the situation might be improved.
- 13.5 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the Licensing Authority’s wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

### **14. Drugs**

- 14.1 The licensing authority recognises that drug use is not something that is relevant to all licensed premises. However, if relevant representations are made special conditions may need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. The conditions to be imposed in such cases may be taken from the DCMS pool of conditions that takes into account the report “Safer Clubbing” issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs Action Team and the Police.

### **15. Anti Social Behaviour**

- 15.1 A minority of consumers will behave badly and unlawfully once away from premises, and licence holders’ co-operation is sought in minimising this behaviour in the vicinity of premises.  
The Licensing Authority recognises that the Act is not a cure-all for anti-social behaviour. There is a range of other strategies for addressing these problems, for example:

- Planning controls
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- Powers of Police and Local Authorities under the Anti-Social Behaviour Act
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- Confiscation of alcohol from adults and children in designated areas
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate
- Promotion of positive activities.

This list may be supplemented by other local initiatives that similarly address these problems.

- 15.2 The Licensing Authority is aware of and will support the use of sections 40 and 41 of the Anti-Social Behaviour Act 2003. These powers allow the closure, by authorised Environmental Health Officers, of premises causing public noise nuisance.
- 15.3 The Authority is also aware and will support the use by police of the issue of written directions under Section 27 of the Violent Crime Reduction Act 2006, whereby a person may receive, a '48 hour' ban from a specific area. [A breach of two or more of the 'Section 27 directions can result in the anti-social behaviour order process being invoked.]

## **16 CCTV Standards Policy**

16.1 Where the provision of CCTV system is a requirement of the conditions of either a Premises licence or a Club Premises certificate, whether these are placed on the licence/certificate as offered by the applicant's Operating Schedule or imposed following a Sub Committee hearing, the system must comply with at least the Licensing Authority's CCTV minimum standard. This has been set in consultation with the police to ensure that the systems provide a tool to prevent criminal and anti-social behaviour and to ensure that the images provided by the systems meet the recognition and identification standards necessary for the detection and prevention of crime and disorder.

### 16.2 The Minimum Standard

- (1) All installed CCTV systems must be of an evidential standard and installed and operated to the satisfaction of the Licensing Authority and the Police. It should cover all areas to which the public have access, excluding, where relevant, the inside of toilets. Images must be recorded at a frame rate no less than 25 frames per second. All cameras located on entrances must be able to produce images of an evidential standard as defined by the Home Office Guidance Manual or any guidance replacing it. Entrance cameras

must be capable of providing good quality head and shoulder images of persons entering/leaving the premises. They should be high-resolution colour cameras complete with an auto iris vari-focal lens. Cameras in the main areas of the premises must be able to cope with the extreme lighting conditions that may be present. The cameras, recording equipment and all ancillaries should be maintained according to the manufacturers' instructions to ensure that the standard of the image is not compromised.

- (2) The numbers of cameras located within the premises and where appropriate for external coverage must be appropriate for the type of licensing activity carried out at the premises. The numbers of cameras, locations and views provided by these cameras must be to the satisfaction of the Licensing Authority and Police. All cameras must provide evidence of identification and be correctly maintained.
- (3) Where, to satisfy the Licensing Authority and the Police, there is a requirement to provide an external camera for coverage of entrances it must be a high resolution, minimum of 450tvl colour day/night camera, complete with an auto iris vari-focal lens, fitted in a heated weatherproof external housing.
- (4) In all areas where cameras are operating including externally the lighting must be of sufficient brightness to complement the quality of the camera images.
- (5) The CCTV recordings must be stored on a digital multiplex recorder with either an on board CD/DVD re-writer and/or a USB port for evidence recovery.
- (6) The system must be capable of producing single images and forward, reverse, pause and slow motion at full screen resolution.
- (7) CCTV images must be retained for a minimum of 14 days and be produced on the request of the Police or a Licensing Officer of East Devon District Council. Recording media must be set to 25 frames per second.
- (8) Recordings of incidents occurring at the premises must be made secure and held for possible inspection.
- (9) All equipment shall have constant time/date generation.
- (10) Unless otherwise agreed in writing by the Licensing Authority there must be sufficient members of trained staff available during the hours of operation to be able to download evidence at the request of the police including the creation of evidential discs. Where an exemption to this requirement is agreed in writing then the evidence requested must be provided no later than 48 hours after the request.
- (11) The Designated Premises Supervisor or Premises licence holder must be able to demonstrate that they have devised a recording management system that prevents recordings being tampered with, stolen, misplaced or failure to record. Recording equipment must be housed in a secure room/cabinet where access is restricted and the operation is strictly limited to authorised persons.

- (12) The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately. Details of the malfunction must be recorded in the premises incident book.
- (13) A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002.
- 16.3 This policy applies to all Premises licences and Club Premises certificates issued or varied (not minor variation) following the Licensing Authority's adoption of the policy on the 7 September 2010. Holders of existing licences and certificates that require the maintenance and use of CCTV are encouraged to comply with the policy as soon as possible.

## **17. Door Supervisors**

- 17.1 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must comply with the Private Security Industry Act 2001 and the Violent Crime Reduction Act 2006 and any successive legislation.
- 17.2 The Licensing Authority having regard to advice from relevant responsible authorities may consider that certain premises require strict supervision for exceptional reasons relating to the licensing objectives to prevent crime and disorder and public nuisance. In such cases, if relevant representations are made the Licensing Authority may impose a condition that licensed supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

Overcrowding is a matter for public safety but it can lead to disorder and violence. Where this is an issue consideration will be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

## **18. Control of Consumers**

- 18.1 The District Council has adopted the relevant powers to designate parts of the District as places where alcohol may not be consumed publicly. The licensing authority will keep this under review.
- 18.2 'Pub Watch' schemes or Licensee Associations will be promoted by the licensing authority. This is intended to promote and encourage public safety and the reduction of crime.
- 18.3 The licensing authority will continue to liaise with the police licensing section and the Fire & Rescue Service to inspect licensed premises. This joint partnership approach is intended to maximise the potential for controlling crime, disorder and hazards at premises and to ensure compliance with relevant conditions as appropriate.

## **19. Nuisance**

- 19.1 To promote the licensing objectives, applicants for licences for licensable activities will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of interested parties.

The Licensing Act does not exempt licence holders from their statutory obligations under the Environmental Protection Act 1990. But in certain circumstances where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to imposing conditions. (See DCMS pool of conditions in the Guidance Issued under Section 182 of the Licensing act 2003.)

The Licensing Authority can only attach conditions if there have been relevant representations and only then if such conditions are deemed necessary, proportionate and reasonable and are not already contained within the applicant's operating schedule.

## **20. Capacity**

- 20.1 Where it is considered necessary to control the maximum numbers of persons attending premises for the purpose of preventing crime and disorder or for public safety the licensing authority will expect this to be addressed in the operating schedule. The licensing authority, if relevant representations are made and only then if such conditions are deemed necessary proportionate and reasonable, may impose a condition stipulating a maximum number of persons permitted to attend premises where it considers it necessary to prevent crime and disorder or for public safety purposes.

## **21. Vessels**

- 21.1 The licensing authority will give particular weight to the views of the Maritime and Coastguard Agency when considering applications for premises licences in respect of vessels. Where, in the opinion of the licensing authority, any of the four objectives are undermined and this cannot be resolved through the imposition of conditions, the application will be refused.

## **22. Temporary Event Notices (TENs)**

- 22.1 Some small-scale events, depending on the circumstances, may be held under the authority of a TEN. There are various restrictions in relation to the number of TENs for individuals and premises and event organisers are strongly advised to obtain advice well in advance of the event.
- 22.2 The Police can object to a TEN only where they consider the event is likely to undermine the Crime Prevention objective. No other person or body may object.
- 22.3 The Act requires a TEN to be served upon the Licensing Authority and the police not less than 10 working days prior to the event. (Not including the day of service or the first day of the event.) Where a TEN is served online it is the Licensing Authority's responsibility to serve a copy on the Police. In practice 10 working days is unlikely to be sufficient to allow any concerns to be resolved and organisers are advised to serve notice giving as much notice as possible. In the event that a hearing is held and a Counter Notice prohibiting it is issued by the Licensing Authority it is unlikely that there will be sufficient time for any appeal to be heard by the Magistrates Court unless substantially more than the ten working days is allowed.
- 22.4 Organisers are strongly advised to ensure that adequate safety measures (including the recorded findings of a Fire Risk Assessment) are in place in relation to any Temporary Event. Any event held under a TEN may be subject to inspection by officers from the Responsible Authorities.
- 22.5 The Licensing Authority will advise other Responsible Authorities of TENs served. Those authorities may address issues of concern under their own regulatory powers.

While the concept of the temporary event notice is to give a light touch to charity organisations it can be used by licence holders of premises to extend their hours of business over holiday periods.

It should be noted that some private events can involve licensable activities, but only in prescribed circumstances. Entertainment at a private event to which the public are not admitted only becomes licensable if it is provided for a consideration and with a view to profit.

## Definitions

**Club Premises Certificate** – authorises the use of premises by a qualifying club for one or more licensable activity

**DCMS** - Department of Culture, Media, and Sport

**Designated Premises Supervisor** means the person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).

**Entertainment Facilities** – Facilities for enabling persons to take part in entertainment.

Regulatory Compliance Code – **Is a code to promote efficient and effective approaches to regulatory inspections and enforcement.**

**The Hampton Principles** – These are the principles that outline the way that regulation and enforcement should be planned and implemented by the regulatory authorities.

**An Interested Party** –

- a person living in the vicinity of the premises
- a body representing persons who live in that vicinity
- a person involved in a business in that vicinity
- a body representing persons involved in such businesses
- an elected Councillor of the District Council (this does not include County, Town or Parish Councillors)

**Late Night Refreshment** - the provision, between 11.00 pm and 5.00 am, of hot food or hot drink, or a section of the public on or from any premises, whether for consumption on or off the premises between 11.00 pm and 5.00 am  
or

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

**Licensable Activities and Qualifying Club Activities** –

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of regulated entertainment
- the provision of late night refreshment
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for - consumption on the premises where the supply takes place
- the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place
- the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests

**Operating Schedule** means a document containing a statement including the following matters: -

- the relevant Licensable Activities
- the times at which the Licensable Activities are to take place and any other times when premises are open to the public
- information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- the steps being taken to promote the Licensing Objectives

**Personal Licence** – authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence

**Premises Licence** – authorises the premises to be used for one or more licensable activity

**Regulated Entertainment -**

- (a) A performance of a play
- (b) An exhibition of film
- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

**Relevant Representation** - is only relevant if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. A representation that fails to do so is 'irrelevant' for the purposes of the Act.

It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious. The interested party may not consider the representation to be frivolous or vexatious, but the test is whether the licensing authority is of the opinion they are frivolous or vexatious. The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. A trivial complaint would not always be frivolous but would have to be pertinent in order to be relevant. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. In borderline cases the benefit will be given to the interested party making the representation. An interested party aggrieved by a rejection of his representations may challenge the authority's decision by way of judicial review.

If the licensing authority decides a representation is relevant then a hearing will be required in relation to that representation unless the authority, the applicant and each person who has made representations agree that a hearing is unnecessary and that the authority take such steps, having regard to the representations and promotion of the licensing objectives.

**Residential Area** - An area whose character is residential at the material time of day. Where there is doubt, the licensing authority will consider the number of residential units in the area and the proportion of such units to units used for other purposes.

**Responsible Authority (who are they?) -**

- (i) the Chief Officer of Police for any police area in which the premises are situated
- (ii) the Fire Authority for any area in which the premises are situated
- (iii) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated
- (iv) the local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are situated
- (v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) a body which:
  - (a) represents those who, in relation to any such area, are responsible for, or interested in matters relating to the protection of children from harm, and
  - (b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters
- (vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated
- (viii) in relation to a vessel:
  - (a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be, navigated at a time when it is used for licensable activities
  - (b) the Environment Agency
  - (c) the British Waterways Board, or
  - (d) the Secretary of State
  - (e) a person prescribed for the purpose of this subsection

**Temporary Event** - the use of premises for one or more of the licensable activities during a period not exceeding 96 hours, usually where a premises licence covering the licensable activity is not in place.

**Temporary Event Notice** means a Permitted Temporary Activity involving one or more licensable activities subject to the following various conditions and limitations: -

- duration – they are limited to events lasting for up to 96 hours;
- scale – they cannot involve the presence of more than 499 people at any one time;
- use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used, and
- the number of notices given by an individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year, and any other person to five notices in a similar period.

(in any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event involved)

**Terminal Hour** refers to the time at which authorised licensable activities should cease and the 'opening hours' when premises are open to the public is not necessarily the same. The authorisation of a licence relates to the sale or supply of alcohol and not to the consumption. 'Drinking up time' no longer applies but applicants would be expected to address this issue when preparing their operating schedules.

## Responsible Authority Contacts

The list of Responsible Authorities and their contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or existing Responsible Authorities change their address.

An up to date list of Responsible Authorities relating to East Devon with their contact details can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Service by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephoning 01395 517410.

Further information can be obtained from the East Devon District Council's Licensing Act 2003 page on the web at [http://www.eastdevon.gov.uk/index/council\\_services/licensing/licensing\\_alcohol\\_and\\_entertainment.htm](http://www.eastdevon.gov.uk/index/council_services/licensing/licensing_alcohol_and_entertainment.htm)

## Useful Contacts

DCMS - Department for Culture Media and Sport

[http://www.culture.gov.uk/what\\_we\\_do/alcohol\\_and\\_entertainment/default.aspx](http://www.culture.gov.uk/what_we_do/alcohol_and_entertainment/default.aspx)

Licensing Documents...

- Licensing Act 2003
- Guidance under Section 182 of the Act

The responsibility for the Licensing Act transferred to the Home Office in July 2010 therefore it is expected that during the life of this policy advice and information will become available through the Home Office Website.

### Association of Convenience Stores (ACS)

<http://www.thelocalshop.com/tls/index.asp>

Federation House

17 Farnborough Street

FARNBOROUGH

GU14 8AG

Email: [acs@acs.org.uk](mailto:acs@acs.org.uk)



**Association of Licensed Multiple Retailers (ALMR)**

<http://www.almr.org.uk/>

9B Walpole Court

Ealing Studios

LONDON

W5 5ED

Telephone: 020 8579 2080

Email: [info@almr.org.uk](mailto:info@almr.org.uk)

**Association of Town Centre Managers (ACTM and Purple Flag)**

<http://www.atcm.org/>

ATCM

1 Queen Anne's Gate

Westminster

LONDON

SW1H 9BT

Email: [office@atcm.org](mailto:office@atcm.org)

**British Beer and Pub Association (BBPA)**

<http://www.beerandpub.com/>

British Beer & Pub Association

Market Towers

1 Nine Elms Lane

LONDON

SW8 5NQ

Telephone: 020 7627 9191

Email: [web@beerandpub.com](mailto:web@beerandpub.com)

**British Board of Film Classification (BBFC)**

[www.bbfc.co.uk](http://www.bbfc.co.uk)

3 Soho Square,

LONDON

W1D 3HD

Email: [contact\\_the\\_bbfc@bbfc.co.uk](mailto:contact_the_bbfc@bbfc.co.uk)

**British Institute of Inn Keeping (BII)**

<http://www.bii.org/>

Wessex House

80 Park Street

CAMBERLEY

GU15 3PT

Telephone: 01276 684449

**British Retail Consortium (BRC)**

<http://www.brc.org.uk/default.asp>

21 Dartmouth Street,

LONDON

SW1H 9BP

Telephone: 0207 85 8900

**Circus Arts Forum**

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

Email: [info@circusarts.org.uk](mailto:info@circusarts.org.uk)



**Cinema Exhibitors' Association (CEA)**

<http://www.cinemauk.org.uk/>

22 Golden Square

LONDON

W1F 9JW

Telephone: 0207 734 9551

**Department for Culture, Media and Sport** (see links to the Licensing Act 2003, Explanatory Notes, Guidance and Regulations)

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

2-4 Cockspur Street

LONDON

SW1Y 5DH

Email: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)

**Equity**

<http://www.equity.org.uk/>

Head Office

Guild House

Upper St Martins Lane

LONDON

WC2H 9EG

Telephone: 020 7379 6000

Email: [info@equity.org.uk](mailto:info@equity.org.uk)

**Home Office**

<http://www.homeoffice.gov.uk/drugs/alcohol/>

Direct Communications Unit

2 Marsham Street

LONDON

SW1P 4DF

**Independent Street Arts Network**

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

54 Chalton Street,

LONDON

NW1 1HS

**Institute of Licensing (IOL)**

<http://www.instituteoflicensing.org/>

Institute of Licensing

45 Larcombe Road

ST AUSTELL

PL25 3EY

**Justices Clerks' Society**

[www.jc-society.co.uk](http://www.jc-society.co.uk)

Telephone: 0151 255 0790

E-mail: [secretariat@jc-society.co.uk](mailto:secretariat@jc-society.co.uk)

**LACORS**

<http://www.lacors.gov.uk/>

Email: [info@lacors.gov.uk](mailto:info@lacors.gov.uk)



**Licensed Victuallers Associations (LVAs)**

<http://www.flva.co.uk/>

Federation of Licensed Victuallers Associations,  
126 Bradford Road  
BRIGHHOUSE  
HD6 4AU

**National Association of Local Government Arts Officers**

<http://www.nalgao.org/>

NALGAO  
Oakvillia  
Off Amman Road  
Brynamman  
Ammanford  
NEATH  
SA18 1SN  
Telephone & Fax: 01269 824728

**National Pub Watch**

<http://www.nationalpubwatch.org.uk/index.php>

National Pubwatch  
PO Box 3523  
BARNET  
EN5 9LQ

**NOCTIS** (Formerly Bar, Entertainment and Dance Association (BEDA))

<http://www.noctisuk.org/>

5 Waterloo Road  
STOCKPORT  
SK1 3BD

**The Portman Group**

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

The Portman Group  
4th Floor  
20 Conduit Street  
LONDON  
W1S 2XW  
Telephone: 0207 290 1460  
Email: [info@portmangroup.org.uk](mailto:info@portmangroup.org.uk)