



South Somerset District Council

# Licensing Policy

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## Contacts and useful websites

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The Licensing Act 2003 can be viewed at:

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

The Secretary of State's Guidance can be viewed at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/209526/1167-A\\_Licensing\\_Act\\_2003\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2_.pdf)

The Police Reform and Social Responsibility Act 2011 can be viewed at:

<http://www.legislation.gov.uk/ukpga/2011/13/contents>

## 1.0 Introduction

### 1.1 Background

1.1.1 South Somerset District Council (the Council) is the licensing authority under the Licensing Act 2003 ('the Act'). It is empowered to administer the following in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment within the District:

- premises licences including provisional statements, full and minor variations, transfers, interim authorities and reviews
- club premises certificates
- temporary event notices
- personal licences

1.1.2 The Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of its Licensing Policy before the Authority can carry out any licensing or regulatory functions under the terms of the Licensing Act 2003. This Policy must be kept under review and the Licensing Authority may make any revisions to it, as it considers appropriate. In any event the Licensing Authority is required to review their Statement of Licensing Policy every 5 years.

1.1.3 This Licensing Policy sets out the issues that the Licensing Authority will take into account when determining licences throughout the District of South Somerset and encompasses experience gained in the implementation and regulation of the Licensing Act 2003.

1.1.4 In determining this Policy the Licensing Authority has had regard to the Guidance issued under Section 182 of the Licensing Act 2003. In determining applications under The Act the Licensing Authority shall consider:

- The promotion of the four Licensing Objectives
- Representations and evidence presented by all parties, together with any relevant supporting documentation
- The Latest Guidance issued by the Government
- The Licensing Authority's own Statement of Licensing Policy

### 1.2 Aim

1.2.1 The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives.

1.2.2 The aim of this Licensing Policy is to set out how the Licensing Authority seeks to promote the four licensing objectives, which are:

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

1.2.3 These four objectives will be the paramount considerations when determining a course of action in relation to the Licensing Authority's licensing functions. Each objective will be given equal importance.

### 1.3 Purpose

- 1.3.1 The main purpose of this Policy is to provide clarity to applicants, other persons and Responsible Authorities on how the Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment. As the 'vicinity' test has now been removed, the Licensing Authority will consider all representations from any person however, the Licensing Authority shall apportion the weight of the representation between those persons immediately affected by the premises and its operation and those persons who may have a lack of knowledge of the area or of personal experience.
- 1.3.2 Where revisions are made to the Guidance there may be a period of time when this Policy is inconsistent with the Guidance. In these circumstances the Licensing Authority shall have regard, and give appropriate weight, to the revised Guidance in conjunction with this Licensing Policy.

### 1.4 Consultation

- 1.4.1 Before determining its policy for any five year period, the Licensing Authority will consult the following:
- the chief officer of police
  - the fire and rescue authority
  - the director of public health
  - persons/bodies representative of local holders of premises licences
  - persons/bodies representative of local holders of club premises certificates
  - persons/bodies representative of local holders of personal licences
  - persons/bodies representative of businesses and residents in the District
- 1.4.2 The Licensing Authority may consult beyond the statutory requirements, and seek comments from additional bodies, groups or individuals as appropriate.

### 1.5 Fundamental Principles

- 1.5.1 This Policy sets out the Licensing Authority's general approach to the making of licensing decisions and is consistent with the provisions of the Act. Nothing in the Policy will undermine the right of any individual to apply for authorisations and to have any such application considered on its individual merits. Similarly, nothing in the Policy will override the right of any person to make representations on an application or to seek a review of a Licence or Certificate in accordance with the provisions of the 2003 Act.
- 1.5.2 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 applicant must give due consideration to disabled persons under this Act for access and egress so that they are not at a substantial disadvantage.
- 1.5.3 The introduction of the Policing & Crime Act 2009 extends Police closure powers. The Licensing Authority further acknowledges and supports that this legislation has been introduced against the background of increasing alcohol-related anti-

social behaviour and subsequent hospital admissions that has led to criticism due to the increased cost to local residents. This Act signifies a shift back from deregulation towards offering greater support for communities being adversely affected.

- 1.5.4 The Licensing Authority may recommend actions over and above the requirements of a licence/certificate and applicants are asked to give these recommendations serious consideration, as adoption of best practice may be considered in the investigation of complaints if they arise in connection with the premises in the future.
- 1.5.5 The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations and only if a Licensing Committee or Licensing Sub-Committee determines the matter. Any conditions attached to the licence must relate to the promotion of the Licensing Objectives.
- 1.5.6 The Licensing Authority acknowledges that the Government believes that in some circumstances flexible hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 1.5.7 Where licensed premises are surrounded by housing, unrestricted extensions of hours could extend the time of disturbance to later in the night; therefore the Licensing Authority acknowledges that tighter control may be justified in residential areas always however having regard to the individual merits of any application.
- 1.5.8 In general terms the Licensing Authority will closely scrutinise applications for premises licences showing a late terminal hour so as to be satisfied that they will have no adverse impact on the Licensing Objectives.
- 1.5.9 Once people are beyond the control of the individual, club or business holding the relevant authorisation, licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour. Licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the district.
- 1.5.10 The Licensing Authority expects every licence holder or event organiser to minimise the impact of their activities on the surrounding area and any anti social behaviour created by their customers in and within the vicinity of their premises by taking appropriate measures and actions consistent with that responsibility. Whether or not incidents can be regarded as being in 'the vicinity' of the licensed premises is recognised as a question of fact and will depend on the specific circumstances in each case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 1.5.11 The type of entertainment offered on licensed premises and the closing hour of premises permitted to provide alcohol to the public often have a direct link to crime and disorder, public nuisance and public safety issues. For example, there is generally more likelihood of crime and disorder and public safety problems occurring in a music and dance venue permitted to sell alcohol and open until 3 am than there is in a well managed public house located in a quiet back street that provides limited regulated entertainment and closes at 11 pm.

## 2.0 General Principles

In all applications relating to premises, applicants should specify methods by which they will promote the four Licensing Objectives in their operating schedules.

### 2.1 Revisions to Policy.

2.1.1 The Policy shall be subject to periodic reviews and further consultation as and when required. The Licensing Authority may make revisions to this Policy following changes to, for example:

- Local circumstances;
- The Licensing Act, associated regulations or statutory guidance;
- Other national legislation; or
- The policies and practices of a responsible authority

### 2.2 Areas of Concern

2.2.1 Specific areas of concern include:

- Sales of alcohol from “On” and “Off” licensed premises.
- Glass related injuries.
- Noise from music on the premises.
- Nuisance and disturbance from smokers immediately outside the premises.

2.2.2 Applicants for a premises licence are advised to include in their Operating Schedule, (where applicable) specifically how they will prevent sales of alcohol to persons under 18 years, minimise glass related injuries and or assaults, prevent noise from licensed premises become a nuisance and manage customers outside their premises who are smoking.

2.2.3 Experience indicates that a last time of entry condition is assisting in the promotion of the licensing objectives. It is therefore expected that applicants for late licensed premises will detail in their operating schedules that there will be no new entry or re-entry to the premises after 1am.

### 2.3 Children

2.3.1 The Act requires applicants for premises licences and club premises certificates to copy details of their applications to 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.

2.3.2 The Licensing Authority’s policy is that the Responsible Authority in relation to the protection of children from harm is Somerset County Council’s Social Services Department, which for the South Somerset Area is based at Maltravers House, Petters Way, Yeovil BA20 1SP.

- 2.3.3 The Licensing Authority will expect licensees of premises giving film exhibitions to include, in their operating schedules, arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the Licensing Authority.
- 2.3.4 The Licensing Authority does not intend to adopt its own system of film classification but reserves the right to amend the classification imposed by the British Board of Film Classification.
- 2.3.5 If the Licensing Authority attaches an age-restriction to any film that differs from the BBFC classification or attaches one to an unclassified film, the information about the Licensing Authority's classification will be published on the Council's website at [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk).
- 2.3.6 The Licensing Authority shall not seek to limit the access of children to any licensed premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the Licensee but the Licensing Authority shall expect that the licensee shall give full consideration of access by children at all times and ensure that there is a policy in place to promote this licensing objective.
- 2.3.7 The following are examples of premises that are likely to raise concern and engage the Licensing Authority as a Responsible Authority to take action:
- Where entertainment or services of an adult or sexual nature are common thereby likely to undermine the licensing objectives;
  - Where relevant premises are known to allow unaccompanied children;
  - Where the applicant has described in the Operating Schedule that '*no adult or similar entertainment shall take place on the premises*' but intends to hold an event liable to compromise the protection of children from harm licensing objective;
  - Where there has been early indication and subsequent evidence of poor management of the premises leading to undermining of the licensing objectives;
  - Where the premises have a known association with drug taking or dealing;
  - Where the current staff have received convictions or cautions for serving alcohol to minors or where the premises has a reputation for underage drinking or failures in test purchasing;
  - Where there is a strong element of gambling on the premises;
  - Where there is likely to be under age events with the intention of selling or exposing alcohol for sale or where the intention is to permit adults to this event;
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 2.3.8 Examples of entertainment likely to cause concern are entertainment or services of an adult or sexual nature including topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or entertainment involving strong or offensive language.

This Licensing Authority strongly advises that where music and alcohol sales are the main reasons for the event taking place, that persons under 18 years are not admitted unless the organisers have extremely robust procedures for ensuring those

under 18 years do not have access to any alcohol – this includes sales, proxy sales, and bringing it onto the event.

- 2.3.9 “Where there are events solely provided for young people, for example an Under 18’s disco in a nightclub or similar relevant premises, the Licensing Authority strongly advises that adequate and sufficient measures are put in place so that young people cannot gain access alcohol or energy drinks and further that no alcohol is served to any supervising adults at such events. The management of the premises should also ensure that measures are taken to prevent alcohol being brought onto those premises and lawful steps are taken to prevent attendees from leaving the premises without parental or guardian consent.”
- 2.3.10 In particular, the Licensing Authority will consider what conditions are offered in the Operating Schedule. The applicant in completing the Operating Schedule is required to describe the steps they intend to take to promote this Licensing Objective and highlight any adult entertainment or services, etc. that may give rise to concern in respect of children. However, where the applicant does not state the steps they intend to take to promote this Objective but does state that “*no adult or similar entertainment shall take place on the premise*”, the Licensing Authority shall consider that this restriction to be a condition on the Licence/certificate even though it may not state it on the Licence/Certificate itself.

## 2.4 Licensing Hours

- 2.4.1 With regard to licensing hours the Licensing Authority will consider each application on its individual merits.
- 2.4.2 Applications for premises licences with a terminal hour later than 12 midnight where the sale or supply of alcohol for consumption on the premises is the main activity or where the sale or supply of alcohol is accompanied by musical entertainment, will be subject to close scrutiny by the Responsible Authorities to ensure that there will be no adverse impact on the Licensing Objectives. Specifically, the applicant should ensure that the operating schedule for such premises demonstrates how the Licensing Objectives will be met. This is a general policy and does not automatically mean that all applications will result in licences being granted until midnight or that no applications will be granted with a closing hour after midnight.
- 2.4.3 In considering these issues the Licensing Authority will give careful consideration to the nature of the venue proposed. For example, the Council is keen to promote establishments at which the service and consumption of alcohol is not the primary activity. These may include restaurants, theatres, cinemas, comedy clubs, galleries, museums, and similar venues. The Licensing Authority’s experience is that such venues are liable to give rise to fewer public concerns in relation to later closing hours.
- 2.4.4 The Licensing Authority will pay special regard to the proximity of residential properties to the proposed premises. Consideration will be given to the imposition of stricter noise control conditions, if representations are received in areas with a concentration of residential properties.
- 2.4.5 The Licensing Authority will expect premises to be cleared of patrons within a reasonable time of the terminal hour set for licensable activities.

- 2.4.6 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons for restricting those hours. An example would be where the Police make representations that the premises are a focus of disorder and disturbance.

## 2.5 Late Night Levies (LNL) and Early Morning Restriction Orders (EMRO'S)

### Late Night Levies

- 2.5.1 The Police Reform and Social Responsibility Act 2011 (the PRSRA) has introduced the power for the Licensing Authority to charge a late night levy ("the levy") to all premises within the South Somerset District. The late night levy is a discretionary power allowing Councils to collect an annual fee from all licensed premises in the district that are authorised to sell alcohol between the hours of midnight and 6am as a means of raising a contribution towards the costs of policing the night time economy. The decision to introduce, vary or cease the levy will be made by full Council in conjunction with the Police and Crime Commissioner and Avon and Somerset Constabulary. However any decision in relation to the administration and design of the levy will be delegated to the Licensing Committee.
- 2.5.2 The Licensing Authority recognises that this levy would cover the whole of the district and not just those premises that are causing problems or those premises within the cumulative impact area. Therefore serious consideration will be given to the introduction of the levy in light of this. Furthermore, the Licensing Authority will give serious consideration as to whether or not the levy is a viable proposal.

### Early Morning Restriction Orders (EMRO)

- 2.5.3 The PRSRA also provides the Licensing Authority with the power to restrict the sale or supply of alcohol between the hours of midnight and 6am by introducing an Early Morning Restriction Order ("EMRO") to tackle high levels of alcohol-related crime and disorder, nuisance and anti-social behaviour. The decision to implement an EMRO must be evidence based and the Licensing Authority must be satisfied that such an Order would be appropriate to promote one or more of the licensing objectives. Furthermore, the Licensing Authority shall consider the potential burden that would be imposed on premises licence/certificate holders. Unlike a LNL an EMRO can apply to a part of the district rather than the whole.
- 2.5.4 As an EMRO is a powerful tool and a very stringent approach in tackling issues, the Licensing Authority will first consider whether other measures may address the problems and achieve the same goal. These could include:
- The current Cumulative Impact Policy;
  - Taking a robust joint agency approach to tackling problem premises;
  - Prior to reviewing a licence/certificate, meeting with the DPS and licence/certificate holder to ensure a Premises Improvement Plan is in place.
  - Using other mechanisms to control the cumulative impact, e.g. planning controls;
  - Using other mechanisms to control noise and anti-social behaviour;
  - Police powers to closure premises;
  - Providing powers to designate parts of the local authority area as places where alcohol may not be consumed publicly;
  - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;

- Provision of CCTV;
- Provision of night marshals and street pastors; introduction of a late night levy;

The above is not an exhaustive list of possible measures.

2.5.5 The Licensing Authority shall periodically review the EMRO in order to ensure that it continues to be appropriate for the promotion of the licensing objectives. The applicant may be required to periodically submit evidence as part of this process to demonstrate that the EMRO is appropriate and achieving the goals and confirming that these cannot be achieved by alternative methods.

## 2.6 Late Night Refreshment

2.6.1 The Licensing Authority will expect applicants for licences in respect of late night refreshment premises to detail in their operating schedules how they intend to promote the licensing objectives and in particular how they intend to address queue management, litter and noise disturbance.

2.6.2 Where appropriate, and, in line with the Public Nuisance and Public Safety Licensing Objectives, the Licensing Authority may recommend that applicants display their company name on containers and packaging; this will enable the Licensing Authority to identify any premises causing concern.

2.6.3 The Licensing Authority expects that any premises providing late night refreshment will have a responsible policy for regularly clearing litter from outside their premises and for 25 metres along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. Such Policy could also include the display of notices advising customers to use the bins provided. In addition, where there is evidence that grease and food, etc. has emanated from the premises, the Licensing Authority recommends that the highway in the vicinity of the premises is swilled or scrubbed so as not to attract gulls, pigeons and vermin. The Licensing Authority recommends that all such inspections and action taken be recorded in the Premises Log Book.

2.6.4 Where an applicant wishes to sell alcohol either on or off the premises in such an establishment or provide an alcohol delivery service, the Licensing Authority recommends that the Operating Schedule sets out specific measures to ensure the prevention of Crime and Disorder and Public Nuisance in the vicinity of the premises. Existing premises that seek to provide an alcohol delivery service are expected to notify the Licensing Authority that they are operating such a service setting out specific measures they intend to take to promote the licensing objectives.

## 3.0 Licensing Approach

### 3.1 Partnership Working

3.1.1 The Council recognises that Licensing functions under the Act are not the only means of promoting the principles behind the Licensing Objectives. Delivery includes working with Planning, Environmental Health, the Police, the Fire Authority, the Crime Reduction Partnerships, Town Councils, Pubwatch, local businesses and

residents, Somerset County Council, transport operators and those involved with child protection.

- 3.1.2 The Council recognises that co-operation across services within the Council and with our external partners remains the best means of promoting the Licensing Objectives.
- 3.1.3 The Licensing Authority seeks to encourage and support the night-time economy by providing a vibrant and safe town centre experience. It shall work closely with the Responsible Authorities to deliver the licensing objectives, including the licensed trade, local people and businesses. The Licensing Authority will continue to work closely as part of these groups to promote the common objectives and shall recognise its duty under Section 17 of The Crime and Disorder Act 1998 when carrying out its functions under the 2003 Act. In addition the Licensing Authority will seek to support strategies where they are allied to the licensing objectives such as the National Alcohol Harm Reduction Strategy and any other relevant strategies and policies.
- 3.1.4 The Licensing Authority recognises that the private sector, local residents and community groups in particular have a vital role to play in promoting the licensing objectives. The Licensing Authority shall work closely with other enforcement agencies in the management of the night time economy, particularly relating to the tackling of under age sales and proxy sales of alcohol and drunkenness or disorder on or in the immediate vicinity of the licensed premises.

## 3.2 Cumulative Impact Policy

- 3.2.1 After considering evidence provided by Avon and Somerset Constabulary on crime statistics in Yeovil and Chard town centres, the Licensing Authority considers it appropriate and necessary to incorporate within this Policy Statement a Cumulative Impact Policy for the towns of Yeovil and Chard, which is set out in full at Appendix B.
- 3.2.2 The effect of adopting this Cumulative Impact Policy would be to create a presumption that applications for new licences, variations or material variations, will normally be refused if relevant representations are received unless it can be demonstrated that the operator will not add to the cumulative impact already being experienced.
- 3.2.3 The Cumulative Impact Policy shall continue to be kept under review, particularly with regard to the boundaries of the cumulative impact area and the Licensing Authority shall continue to regularly assess whether or not a Cumulative Impact Policy is necessary for the promotion of the four Licensing Objectives.
- 3.2.4 After receiving representations on a new or varied application, the Licensing Authority shall consider whether it would be justified in departing from the Cumulative Impact Policy in the light of the individual circumstances of the case. For example, whereas a nightclub or high capacity public house might add to the cumulative impact problems in the identified area, a small restaurant or theatre may not. Each case will be treated on its own merit.
- 3.2.5 The cumulative impact policy will not affect an existing licence or certificate, unless a variation is sought at which point it can be taken into consideration if representation(s) are received.

### 3.3. Local Strategies and Policies

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

- Sustainable Community Strategy
- Somerset Health & Well-Being Plan

### 3.4 Integrating Strategies

3.4.1 There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case the Council will aim, as far as possible, to coordinate them.

3.4.2 Cultural Strategy – The Council will monitor the impact of any decisions on the provision of regulated entertainment. The aim is not to deter live music, but to ensure that the licensing objectives are promoted. The Council will monitor the effect of licensing on the provision of regulated entertainment, particularly live music and dancing to ensure that any licensing conditions that impose any restrictions on such events are proportionate and reasonable.

3.4.3 Racial Equality – The Council is required under race relations legislation 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. The impact of these issues on the Licensing Policy will be monitored and amendments will be made as necessary.

3.4.4 Where appropriate, the Licensing Authority will also have regard to:

- local crime prevention strategies;
- needs of the local tourist economy;
- employment situation in the area and the need for new investment and employment where appropriate;
- needs of the local community
- the duty on Public Authorities to eliminate unlawful discrimination;
- the Economic Strategy
- the policy on cumulative impact.

### 3.5 Avoiding Duplication

3.5.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes such as health and safety at work, fire safety, building control and planning. Conditions will not be imposed if the matters concerned are already provided for in other legislation. However, other legislation may not always cover the unique circumstances that arise in connection with licensable activities and in such cases tailored conditions may be necessary but only if relevant representations are received.

3.5.2 The Licensing Authority recognises that in accordance with Section 43 of the Regulatory Reform (Fire Safety) Order 2005, any conditions imposed by the Licensing Authority that relate to any requirements on prohibitions that are or

could be imposed by that Order, shall have no effect. The Licensing Authority shall therefore not seek to impose fire safety conditions where the Order applies.

- 3.5.3 In much the same way, the Indecent Displays Act 1981 prohibits the public display of indecent matter and the Licensing Authority shall therefore not seek to impose conditions concerning such displays inside or outside the premises. The existing laws governing indecency and obscenity are adequate to control adult entertainment of this nature. However, the Licensing Authority shall, if it considers necessary in certain premises, consider attaching conditions following a hearing addressing the exclusion of minors.
- 3.5.4 Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether or not to grant or vary a licence but only if relevant representations are received.
- 3.5.5 The Licensing Authority recognises that the existence of planning permission, building regulation approval or outside table licences must be properly separated from licensing applications to avoid duplication and inefficiency. Similarly, the existence of a Premises Licence shall not prejudice the consideration of any planning, building regulation approval or outside table applications. However, the Licensing Authority shall expect applicants to have obtained the appropriate consents or licences prior to operation.
- 3.5.6 Where premises have not obtained such consents or licences, they will be liable for enforcement action under the appropriate legislation. There may be circumstances when as a condition of planning permission a terminal hour is set for the use of commercial premises. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time to ensure that they are not in breach. Premises operating in breach of their Planning Permission or their premises licence/certificate may be liable to enforcement action by the Planning Authority or the Licensing Authority as appropriate.

### 3.6 Representations

- 3.6.1 Under the 2003 Act both Responsible Authorities and 'other persons' may make representations on licence/certificate applications and review existing premises licences/certificates.
- 3.6.2 'Other persons' is defined as any individual, body or business that may be affected by the operation of a licensed premise regardless of their geographical location. Although the other person may be in any geographical location, any representation they make must be relevant to one or more of the licensing objectives. In addition the other person is encouraged to provide evidence supporting their representation or review. This may be for example by way of recording dates where noise nuisance or anti-social behaviour occurs. Any representation however must be specific to the premises in question and not to the area in general. The representation should also detail how the granting of the application is likely to affect the person making it.
- 3.6.3 The Licensing Authority will however consider the geographical location of the other person who has made the representation to see if in fact that it is a relevant and valid representation with supporting evidence.

3.6.4 In addition all representations must be relevant relating to the likely effect of the grant of the licence/certificate on the promotion of at least one of the licensing objectives. The Licensing Authority will determine whether a representation from an individual, body or business is relevant, frivolous, repetitive or vexatious. In borderline cases, the benefit of the doubt will be given to the person or body making that representation.

### 3.7 Conditions

3.7.1 Where conditions are imposed at a licensing hearing, they shall be appropriate and proportionate and shall be tailored to the size, style, characteristics and activities that take place at the premises concerned. However, the Licensing Authority accepts that Responsible Authorities may suggest conditions following negotiation with the applicant when completing their Operating Schedules.

3.7.2 In addition conditions imposed by a Licensing Authority shall be precise and enforceable, clear in what they intend to achieve, shall not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation, shall not replicate offences set out in the 2003 Act or other legislation, shall be justifiable and capable of being met and shall not seek to manage the behaviour of customers once they are beyond the direct management of the licence/certificate holder and their staff.

3.7.3 The Licensing Authority recommends that conditions volunteered in the Operating Schedule should be:

- Targeted on the deterrence and prevention of crime and disorder
- Appropriate for the promotion of the licensing objectives;
- Proportionate and enforceable;
- Consistent and not conflicting;
- Relevant, clear and concise;
- Not duplicate other legislation; and
- Expressed in plain language capable of being understood by those expected to comply with them.

3.7.4 The Licensing Authority when preparing the licences/certificates shall not simply replicate the wording from an applicant's Operating Schedule but will interpret conditions in accordance with the applicant's overall intentions.

### 3.8 Enforcement

3.8.1 The Licensing Authority has adopted an Enforcement Policy, available on the Council's web site, in accordance with the principles of consistency, transparency, proportionality and objectivity set out in the Enforcement Concordat. It conducts its inspection and enforcement procedures in accordance with the Hampton Principles referred to in the Department of Business Enterprise & Regulatory Reform (BERR) Report, in order to attain an efficient and effective regulatory inspection and enforcement programme. By adopting these principles regulation is effective and well targeted, this promotes fair, proportionate and flexible enforcement, thereby encouraging economic progress.

Enforcement action will be:

- Targeted toward those premises presenting the highest risk;
  - Proportional to the nature and seriousness of the risk those premises present;
  - Consistent, so that the Licensing Authority takes similar approaches in similar situations;
  - Transparent, so those who are subject to enforcement action know what to expect; and
  - Accountable, so that the Licensing Authority and its officers take responsibility for their actions.
- 3.8.2 The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and any licence conditions. It will also monitor the District for unlicensed activities that may or may not require authorisation.
- 3.8.3 The Licensing Authority has established protocols with Avon and Somerset Police Authority, Somerset County Council Trading Standards and Devon and Somerset Fire Authority on enforcement issues to ensure an efficient deployment of Police and Council Officers. Where official warnings are given prior to any decision to prosecute for an offence, the Licensing Authority shall ensure that these enforcement authorities are informed of these warnings and the result of any action taken.
- 3.8.4 In order to ensure compliance with the law and licensing conditions, the Licensing Authority will also carry out whenever possible unscheduled 'non routine' evening inspections with Avon and Somerset Constabulary. After each visit, the Designated Premises Supervisor and Premises Licence Holder shall be notified of any concerns and be given an opportunity to rectify any issues.
- 3.8.5 The Licensing Authority recognises that most Licence Holders seek to comply with the law and any enforcement action will normally follow a graduated approach and in the first instance will include education and support. Where licence holders continue to flout the law or act irresponsibly firm action will be taken.
- 3.8.6 Premises have been risk rated by the Licensing Authority in order to identify which are of high, medium or low risk and a robust inspection programme has been developed which targets problem premises as a priority and ensures they receive greater attention. Low risk premises that are well run will thereby benefit from a lighter touch.
- 3.8.7 The Licensing Authority may seek to meet with the licence or certificate holder and/or DPS working closely with them and relevant Responsible Authorities in implementing a Premise Improvement Plan where appropriate.
- 3.8.8 Where the premise does not comply with an agreed Improvement Plan and continues to breach the licensing laws and/or licence conditions, the Licensing Authority will consider further sanctions, either by way of a review, formal caution or prosecution. In any event, the Licensing Authority will have regard to the Regulators' Compliance Code and the Enforcement Concordat together with the Council's own Enforcement Policy available on the Council's website.

- 3.8.9 Where once off events are taking place, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted. Inspections shall be carried out in accordance with the principles of risk assessment and targeting problem premises.
- 3.8.10 In addition, the Licensing Authority will conduct checks to ensure that official notices for new applications, varied applications, reviews and minor variations are accurate and clearly displayed. Notices for reviews shall be displayed at or near the site of the premises, and where there are concerns these shall be regularly checked and recorded.
- 3.8.11 Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

### 3.9 Complaints Against Licensed Premises

- 3.9.1 Complainants are advised, whenever possible, in the first instance to raise their complaint directly with the licensee in order to resolve the matter. The Licensing Authority, however, recognises that it is not always possible or practical for complaints to be raised directly. In such circumstances, complaints in the first instance should be addressed to: The Licensing Manager, South Somerset District Council, The Council Offices, Brympton Way Yeovil, BA20 2HT or e-mail [licensing@southsomerset.gov.uk](mailto:licensing@southsomerset.gov.uk)
- 3.9.2 It is expected that all noise-related complaints are initially raised with the Council's Environmental Protection Service and complaints regarding unlicensed activities and operating outside the permitted hours are raised with the Licensing Manager.
- 3.9.3 On receipt of a complaint, the Licensing Officer shall investigate the circumstances, discussing the complaint with the Designated Premises Supervisor of the licensed premises, the Premises Licence holder, any Relevant Responsible Authority and the complainant. Where it is a valid complaint, the Licensing Authority shall endeavour to seek a resolution through informal means prior to taking any legal action.
- 3.9.4 The Licensing Manager is responsible for considering complaints in the context of this Policy and will determine whether or not it is a relevant complaint. They will authorise suitably qualified officers to discharge enforcement duties as appropriate to their seniority, professional qualifications and/or experience in order to resolve any complaint.
- 3.9.5 Where there is a serious complaint, the Assistant Director (Environment), the Licensing Manager and Licensing Officers shall ensure that it is investigated and enforcement action taken where necessary. The Licensing Authority shall act in accordance with the Enforcement Policy available on the Council's web site or from Licensing Services and in accordance with the Regulators' Compliance Code: Statutory Code of Practice for Regulators.
- 3.9.6 The Licensing Authority recognises that this Policy and the promotion of the Licensing Objectives relies on partnership between all the parties. Therefore where there are any concerns identified at the premises, or there is need for

improvement, the Licensing Authority shall work closely with the parties at an early stage to address these concerns.

### 3.10 Live Music, Dancing and Theatre

- 3.10.1 The Council recognises the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of the community and in particular for children and young people.
- 3.10.2 When considering applications for such events and the imposition of any conditions if representations are received on licences or certificates, the Licensing Authority will carefully balance the need to promote the licensing objectives against these wider cultural benefits.
- 3.10.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merit. Live music is a performance of live music in the presence of an audience that it is intended to entertain; it can for example include the playing of some recorded music and may be part of the performance of amplified live music. As there will inevitably be a degree of judgement as to whether a performance is live music or not organisers of events are encouraged to consult with the Licensing Authority if in doubt. The Licensing Authority is aware of the changes made to the Licensing Act 2003 by the Live Music Act 2012 and an amending statutory instrument<sup>1</sup> so that in prescribed circumstances, live music, performance of dance and plays are not classed as a licensable activity.

## 4.0 Administrative Issues

In light of changes to the law regarding the EU Services Directive for online applications the Licensing Authority will accept online and electronic applications; however applications will not be treated as valid until all relevant documents have been received together with the appropriate fee.

All hard copy applications will be treated in line with the relevant regulations and all applications and relevant documentation must continue to be submitted in their entirety and not in piecemeal form to avoid the potential for any errors or confusion.

As the Regulations require advertising of all new and variation applications, the Licensing Authority recommends that the applicant contact them prior to displaying the statutory notice or advertising the application in a local paper circulating in the vicinity of the premises. This will ensure that an accurate consultation date will be given which will avoid any errors and the potential of a breach of the regulations that would result in the application being rejected or delayed.

### 4.1 Premises Licence

- 4.1.1 The Premises Licence application outlines the operating conditions and the Operating Schedule that will form the basis of conditions that will be attached to

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<sup>1</sup> SI 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2013

the Licence. It should include information that is necessary to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The Licensing Authority shall expect the applicant to have carefully considered the promotion of all four Licensing Objectives in their Operating Schedule.

4.1.2 It is recommended that applicants liaise with neighbours and/or any relevant community group such as a local residents association, or other such groups, as may be appropriate prior to submitting an application.

4.1.3 The Licensing Authority especially recommends that applicant liaise with the Relevant Authorities prior to submitting their applications, e.g. police or fire authority, when compiling their operating schedules and the local pubwatch if one operates in that area.

4.1.4 In completing their Operating Schedule the Licensing Authority suggest the applicant considers the following:

#### **General**

- Premises log book
- Management and staff training and awareness of duties under the Licensing Act
- Policies and procedures relating to e.g. age restricted sales, capacity, noise monitoring, dispersal, queuing, etc.
- Safe capacities
- Evidence of competent management procedures

#### **Prevention of Crime and Disorder**

- Drugs policy
- CCTV
- Pub Watch and Radio links with other licensed premises
- Security Industry Authority Door supervisors and Approved Contractor Scheme
- Polycarbonate or shatterproof vessels
- Frequency of glass bottle disposal and provision of secure storage before collection
- An appropriate ratio of tables and chairs to customers
- Management of outside areas
- Use of 'spikeys' or similar anti drink spiking device
- Calming atmosphere at close of business/event
- Safe capacities
- Queuing policy
- Stewards for events and event plan

#### **Public Safety**

- Health and Safety and Fire Safety risk assessments and staff training
- Safeguarding measures
- Use of CCTV in and around the premises
- Safe capacities and monitoring procedures
- Provision of local taxi companies who can provide safe transportation home
- Procedures to control access to and egress from premises
- Patrolling of premises

- Glass clearance policy
- Control of ventilation
- Control of litter immediately outside the premises
- The presence of trained first aiders and appropriate & sufficient first aid kits
- Adequate external lighting
- Consideration of the safety of performers appearing at any premises
- Indoor sporting events: medical practitioner; flame retardant material, location of public to wrestling ring; water sports events – lifeguards
- Stewards for events and event plan; and regard to standards of the National Sporting Body
- Ensuring appropriate access for emergency services

### **Prevention of Public Nuisance**

- Control of general noise, disturbance, light, odour, litter and anti-social behaviour
- Whilst regulated entertainment taking place, management of noise disturbance
- Control of litter (e.g. cigarette ends, rubbish, etc.), vomiting, urinating and anti-social behaviour in the vicinity of the premises
- Dispersal policy to ensure customers respect their neighbours
- Removal of persons causing disturbance
- Management of outside areas, e.g. pub gardens, smokers, etc.
- Control of deliveries in early hours
- Queuing policy
- Winding down period

### **Protection of Children from Harm**

- Refusals book
- Consideration of access to premises where adult entertainment may take place
- Consideration to proximity of premises to schools and youth clubs
- Restriction on hours when children under a specified age can be present and whether they should be accompanied by a responsible adult
- Clarity on activities and times at which events take place to determine whether or not it is appropriate to allow access to children
- Challenge 21 or 25 policy
- Prompting mechanism on tills at retail outlets
- Measures to control access to hotel minibars
- Operational measures to avoid proxy purchases
- How to prevent children from being exposed to alcohol sales at under age events, gambling, incidents of violence and disorder and drugs or drug taking
- Consideration of safeguarding issues
- Consideration of children as performers where relevant
- Supervision of children
- Under 18 event Code of Conduct, for example: searches, ticketed event, door supervisors, DBS checks, stewards monitoring event, set hours for event, restricted event, policy to ensure young people leave premise safely, etc.

These lists are not exhaustive and advice can be obtained from the relevant responsible authorities. However, applicants are reminded again to contact the relevant Responsible Authorities to seek their expert advice before an application is submitted to the Licensing Authority.

## 4.2 Garages

- 4.2.1 With regard to the licensing of garages, and/or filling stations, Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises that are used primarily as a garage. However, the Licensing Authority will use the court's approach based on intensity of use, to establish primary use. Where such applications are submitted, the Licensing Authority will expect sufficient relevant evidence to accompany the application form to prove the issue of primary use. Where there is any doubt the Licensing Manager will determine whether or not any premises are used primarily as a garage.

## 4.3 Mobile Premises

- 4.3.1 Where licensable activities take place in mobile vehicles, a Premises Licence will be required for the land upon which the vehicle operates. The Operating Schedule must indicate the specific pitch from where trading is to take place.
- 4.3.2 As this type of premises is likely to cause people to congregate, the Licensing Authority shall expect applicants to demonstrate specific measures to prevent Crime and Disorder and Public Nuisance. In addition, the Licensing Authority shall expect the applicant to consider specific measures to ensure that litter from such premises is regularly disposed of and that the licensee has adopted a Litter Policy as set out above.

## 4.4 Temporary Event Notices

- 4.4.1 The Act states that the premises user must give the Licensing Authority a minimum of 10 working days' notice for a standard temporary event notice and between 5 and 9 working days' for a late temporary event notice. The 'working day' requirement means that the day of receipt of the notice, Saturdays or Sundays, Bank Holidays, or the day of the event are not included as a working day.
- 4.4.2 Premises users are advised to submit their TENS well before the date of the event (ideally 28 days beforehand). When serving TEN's in a hard copy format, the premises user should serve the notice on the Licensing Authority, Police and the Environmental Protection team at the same time to avoid a situation where one of the bodies does not receive their copy within the statutory timescale, which could mean that the event cannot proceed even if the other bodies have received their copy in time.
- 4.4.3 It is a legal requirement for all organisers to prepare Health and Safety and Fire Safety Risk Assessments with regard to their event. Guidance on how to conduct such risk assessments may be obtained from the relevant enforcing authority. The Licensing Authority may notify the Fire Authority of any TENS submitted so that they can offer advice to event organisers if necessary. Members of the Safety Advisory Group may also be notified of any TENS for similar reasons. Organisers are recommended to give thought to the provision of first aid at such events. It should be noted that if the Fire Authority is of the opinion that the use of premises/venue involves, or will involve, a risk to relevant persons so serious, including anything affecting their escape from the premises in the event of fire, the Fire Authority may prohibit or restrict premises use without notice.

## 4.5 Personal Licences & Exemption of Designated Premises Supervisor

- 4.5.1 The Licensing Authority places particular emphasis on the role of premises supervisors and licensees and where the Police object on the grounds of prevention of crime and disorder there will be a presumption against issuing a personal licence to any applicant with an unspent conviction for a relevant offence. If the applicant can demonstrate exceptional and compelling reasons for disregarding the conviction, this will be taken into consideration.
- 4.5.2 The Licensing Authority advises that it is good practice for the Personal Licence holder to give specific written and dated authorisation to individuals to demonstrate due diligence. Whilst the Designated Premises Supervisor (“the DPS”) and Personal Licence Holder may authorise sales in their absence, they still remain responsible for those sales. Similarly, the Premises Licence Holder also remains responsible for ensuring that the licensing law and conditions are complied with at that premises. Any authorisations should be meaningful and properly managed.
- 4.5.3 Where a Premises Licence is in force authorising the supply of alcohol, a DPS will need to be nominated. The main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified by Responsible Authorities as the individual who has day-to-day responsibility for running the business and who can therefore ensure that any problems are dealt with swiftly. As such the DPS will occupy a pivotal position. Experience has proved that in some cases the Premises Licence Holder has employed a DPS who is remote from the premises and therefore not involved in the day-to-day running of that premise; the Licensing Authority will therefore pay particular attention to those premises.
- 4.5.4 Whilst the Licensing Authority recognises that a DPS may supervise more than one premise, the DPS must be able to ensure that the four Licensing Objectives are promoted and that the licensing law and licensing conditions are complied with. Where the DPS is not available at the premises for whatever reason, the Licensing Authority recommends a responsible individual is nominated who can deal with matters in the absence of the DPS. In addition, the Licensing Authority recommends that a notice is displayed prominently indicating the name and position of that nominated person. Whenever alcohol is to be sold it is recommended that written and dated consent be given to that nominated person.
- 4.5.5 Experience has indicated that a number of Personal Licence Holders have failed to produce their Personal Licence to the court in accordance with Section 128 of the 2003 Act. In view of this the Licensing Authority will take appropriate action against those who continue to fail to notify the courts and/or provide notification of their change of address in accordance with their statutory duty.

### Exemption of DPS

- 4.5.6 Where a community premises applies for an exemption from the requirement to have a DPS, the Licensing Authority must be satisfied that arrangements for the management of the premises by their Committee or Board of individuals are sufficient to ensure the adequate supervision of the supply of alcohol on the premises. The applicant will be required to set out how the premise is managed, its committee structure and how the supervision of alcohol sales is conducted. Copies of the Constitution and other management documents must be submitted. The management committee is strongly encouraged to notify the Licensing Authority if there are any key changes in the committee’s composition as this committee will

collectively be responsible for ensuring compliance with licence conditions and licensing law. Where management arrangements are unclear, the Licensing Authority may seek further details to confirm that the management board or committee is properly constituted and accountable. While overall responsibility lies with the management committee where premises are hired out, the hirer will be clearly identified as having responsibilities falling within their control. Community premises are encouraged to check with the Licensing Authority before making any application.

## 4.6 Large Scale Events

- 4.6.1 Large Scale events of a temporary or more permanent nature will generally require detailed planning, it is therefore recommended that applicants engage with the Responsible Authorities, the Safety Advisory Group, local Town & Parish Councils and residents as early as possible in the planning process; this should ensure that applicants are aware of potential issues and have already addressed them prior to submission of their application. Such an approach in effect, lengthens the statutory consultation period as there is a considerable amount of work for all parties involved and reduces the number of issues/uncertainties once in the formal process.
- 4.6.2 It is strongly recommended that applications for Large Scale events are submitted no later than the timescales given below:

Maximum number of attendees at any time	Minimum notice period
500 - 999	Not less than 3 months
1000 - 2999	Not less than 4 months
3000 - 4999	Not less than 5 months
5000 - 9999	Not less than 6 months
10000 - 49999	Not less than 7 months
50000 +	Not less than 8 months

- 4.6.3 If less notice is given by an applicant, they may have insufficient time to respond fully to representations that may have been submitted; this is particularly relevant where Responsible Authorities and/or other persons take the view that an application is lacking in detail and substance, which can lead to the licensing process becoming drawn out in the lead up to the proposed event. This can lead to pressures on an organiser in the crucial lead up time to an event itself and could lead to the refusal of the licence.
- 4.6.4 Applicants must be mindful that although it is possible for an operating schedule to be drawn sufficiently widely to encompass a range of events under a licence, there is a possibility that it will lack sufficient specific detail to enable responsible authorities to come to a balanced judgment as to whether the licensing objectives will be placed at risk and as to whether the mitigation measures proposed will be sufficient to avert that risk. Further, the potential for adverse impacts can vary significantly between events even when planned at the same premises; applicants are therefore advised to provide as much detail as possible for each type of event.
- 4.6.5 Where relevant representations are received in respect of an application, the Authority will consider, amongst other matters, whether the operating schedule a)

defines the events proposed with sufficient certainty to enable Responsible Authorities and the Authority itself to consider the risks to the licensing objectives arising from the event; b) defines the measures proposed to avert those risks with sufficient certainty to enable Responsible Authorities and the Licensing Authority itself to make a balanced judgment as to whether the measures will be sufficient to avert those risks.

- 4.6.6 Organisers should be able to demonstrate that they have had regard to 'The Event Safety Guide – also known as the 'Purple Guide' and that they have carried out risk assessments suitable for the event; it can be found at:  
<http://www.thepurpleguide.co.uk/>

#### 4.7 Reviews of Licence or Club Premises Certificate

- 4.7.1 The Licensing Act 2003 details that where a premises licence or club premises certificate has effect, a responsible authority or another person may apply to the relevant licensing authority for a review of the licence. Nothing in this Policy shall restrict their right to apply for a review of a licence or make relevant representations in accordance with the Act, however the licensing authority may, at any time, reject any ground for review specified in an application under this section if it is satisfied that the ground is not relevant to one or more of the licensing objectives, or in the case of an application made by a person other than a responsible authority, that the ground is frivolous or vexatious, or the ground is a repetition.
- 4.7.2 Where a person or body is considering making an application for a review, they are advised to contact the Licensing Team. This is so that Officers may provide some initial feedback on the matter and then, if appropriate, attempt to facilitate a meeting or a series of meetings between relevant persons and bodies to consider alternative solutions and/or discuss the review process.
- 4.7.3 Applicants should make all reasonable efforts to set out their concerns regarding an authorisation concisely and clearly, and ensure that these concerns are relevant to a failure to promote the Licensing Objectives.
- 4.7.4 Examples of triggers for a review may be: continual complaints of noise from or in the vicinity of the premises; continual complaints of noise or intimidation from customers outside the premises; an accumulation of breaches of licensing conditions; poor management where the licensing objectives are undermined; underage sales of alcohol (persistent or otherwise); crime-related activity; anti-social behaviour; sales of alcohol outside of the permitted hours, etc.
- 4.7.5 The Licensing Authority shall expect applicants for a review to gather sufficient and relevant evidence relating to the specific premises that is subject to the review. This may include a diary of events and any potential witnesses. With regard to reviews on noise complaints, applicants are encouraged to liaise with the Council's Environmental Protection team who may be able to assist with and support the review process.
- 4.7.6 Prior to a review, however, Avon and Somerset Police, other Responsible Authorities or the Licensing Authority may seek to meet with the licence/certificate holder to address issues through a premises improvement plan.

## 4.8 Administration, Exercise and Delegation of Functions

- 4.8.1 The Council has a Licensing Committee, consisting of 15 elected members, to carry out its licensing functions and to make licensing decisions, except those functions relating to the making of a Statement of Licensing Policy.
- 4.8.2 In the interests of speed, efficiency and cost-effectiveness the Committee will delegate certain decisions and functions to Sub-Committees and officers.
- 4.8.3 For example, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate or Police objection to an application for a personal licence, these matters should be dealt with by officers.
- 4.8.4 The following table sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers.
- 4.8.5 This scheme of delegation does not prevent the referral of matters to a higher authority if considered appropriate in the circumstances of any particular case.

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE OR FULL COMMITTEE IF APPROPRIATE	OFFICERS
Application for personal licence, with no relevant convictions, or with spent relevant convictions			✓
Application for personal licence, with unspent convictions		If a Police representation is made and not withdrawn	
Application for premises licence/club premises certificate		If a representation is made and not withdrawn	All other cases
Application for provisional statement		If a representation is made and not withdrawn	All other cases
Application to vary premises licence/club premises certificate		If a representation is made and not withdrawn	All other cases
Application to vary designated premises supervisor		If a police objection is made and not withdrawn	All other cases
Request to be removed as designated premises supervisor			✓

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE OR FULL COMMITTEE IF APPROPRIATE	OFFICERS
Application for transfer of premises licence		If a police objection is made and not withdrawn	All other cases
Application for interim authority		If a police objection is made and not withdrawn	All other cases
Application to review premises licence/club premises certificate		✓	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			✓
Decision to object when local authority is a consultee and not the relevant authority considering the application		✓	
Determination of a police or environmental protection objection to a temporary event notice		✓	
Imposition of existing conditions on a standard TEN (s106A LA03)		✓	
Determination of application to vary licence at community premises to include alternative licence condition		If Police objection made and not withdrawn	All other cases
Decision on whether to consult other Responsible Authorities on Minor Variation application			Licensing Manager or their deputy in their absence
Application for a Minor Variation			If representation(s) made and not withdrawn – Licensing

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE OR FULL COMMITTEE IF APPROPRIATE	OFFICERS
			Manager
Acting as a Responsible Authority on behalf of the Licensing Authority			Licensing Manager or their deputy in their absence
Suspension of a Premises licence of Club premises Certificate for non-payment of annual fee			Licensing Manager or their deputy in their absence
Specify the date on which suspension takes effect (min 2 working days)			Licensing Manager or their deputy in their absence
Licensing Policy Approval	✓		
Decision to make, vary or revoke an Early Morning Restriction Order	✓		
Decision on whether or not an EMRO is appropriate		✓	
Decision to introduce, vary or end a late night levy	✓		
Other decisions relating to administration and design of levy		✓	

## 4.9 Licensing Authority as a Responsible Authority

- 4.9.1 The Police Reform and Social Responsibility Act 2011 amended the 2003 Act to include the Licensing Authority as a Responsible Authority. This Licensing Authority is therefore empowered to fulfil the same functions as other Responsible Authorities under the Act including making relevant representations to new licence/certificate applications and variations and reviewing an existing licence/certificate.
- 4.9.2 The Licensing Authority will however not normally act on behalf of other parties (e.g. local residents, councillors or community groups) as such parties may make relevant representations in their own right. However, if these parties fail to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may in these circumstances choose to act in its capacity as a Responsible Authority. However, before the Licensing Authority acts in this capacity it will expect other Responsible Authorities to intervene where the basis for that intervention falls within their remit. The Licensing Authority recognises that each Responsible Authority has equal standing under the 2003 Act and has the power to act independently without waiting for representations from any other Responsible Authority.
- 4.9.3 In cases where the Licensing Authority is also acting in its capacity as a Responsible Authority it will ensure that there is a separation of responsibilities within the Council to ensure procedural fairness and eliminate conflict of interests. The Licensing Officer reporting to the Licensing Sub Committee shall be different from the officer who is acting as the Responsible Authority.

## APPENDIX A GLOSSARY OF TERMINOLOGY

Cumulative Impact	Where there is a potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.
Club Premises Certificate	means a certificate granted to a qualifying club under the Act in respect of premises occupied, and habitually used for the purposes of a club. Alcohol must not be supplied other than to members by or on behalf of the club.
Hot food or hot drink	<p>food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:</p> <p>(i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or</p> <p>(ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.</p>
Licensable activities and qualifying club activities	<p>are defined in the Licensing Act as:</p> <p>(i) the sale by retail of alcohol</p> <p>(ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club</p> <p>(iii) the provision of regulated entertainment</p> <p>(iv) the provision of late night refreshment - for those purposes the following licensable activities are also qualifying club activities:</p> <p style="padding-left: 20px;">(i) 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</p> <p style="padding-left: 20px;">(ii) 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</p> <p style="padding-left: 20px;">(iii) 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.</p>
Operating Schedule	<p>means a document that must be prepared by or on behalf of an applicant for a premises licence or club premises certificate containing a statement including the following matters:</p> <ul style="list-style-type: none"> <li>• the relevant licensable activities</li> <li>• the times at which licensable activities are to take place and any other times the premises are to be open to the public</li> <li>• information about the Designated Premises Supervisor (if any)</li> <li>• whether any alcohol sales are on and/or off sales (if any)</li> </ul>

	<ul style="list-style-type: none"> <li>the steps being taken to promote the licensing objectives.</li> </ul>
Other Persons	Any individual, body or business affected by the operation of a licensed premises, regardless of their geographical proximity to the premises
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 activities.
Provision of late night refreshment	<p>is defined as the provision of hot food or hot drink to members of the public, or a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am or,</p> <p>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.</p>
Regulated Entertainment	<p>is defined as:</p> <p>(a) a performance of a play</p> <p>(b) an exhibition of film</p> <p>(c) an indoor sporting event</p> <p>(d) a boxing or wrestling entertainment</p> <p>(e) a performance of live music</p> <p>(f) any playing of recorded music</p> <p>(g) a performance of dance</p> <p>(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).</p>
Responsible Authority	<p>is defined as:</p> <p>3.0 the relevant licensing authority and any other licensing authority in whose area part of the premises is situated,”</p> <p>4.0 the Chief Officer of Police for any Police area in which the premises are situated</p> <p>5.0 the Fire and Rescue Authority for any area in which the premises are situated</p> <p>6.0 the Director of Public Health ((England) and the Local Health Board (Wales)</p>

	<p>7.0 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</p> <p>8.0 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</p> <p>9.0 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</p> <p>10.0 a body which:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters</li> </ul> <p>11.0 in relation to a vessel:</p> <p>(i) 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</p> <p>(ii) the Environment Agency</p> <p>(ii) the British Waterways Board, or</p> <p>(iii) Secretary of State</p> <p>12.0 a person prescribed for the purpose of this subsection.</p>
Safety Advisory Group	A group of officers from Licensing, Health & Safety, Environmental Protection, Police, Fire, Ambulance Service and County Highways.
Temporary Event	is defined as the use of premises for one or more of the licensable activities during a period not exceeding 168 hours usually where a premises licence covering the licensable activity is not in place.
Temporary Event Notice	a document giving notice to the Licensing Authority of intention to hold a temporary event

## Appendix B

### CUMULATIVE IMPACT POLICY

#### 1.0 Policy Statement

- 1.1 The District Council, as the Licensing Authority, has a duty to comply with its obligations under Section 17 of the Crime and Disorder Act 1998 in respect of Crime and Disorder and to promote the four Licensing Objectives of the Licensing Act 2003.
- 1.2 The Licensing Authority is mindful of the problems that can be created when large numbers of premises providing licensable activities are located in close proximity, or where premise densities are out of character with the remaining social infrastructures of the locality. To that end, as part of the Council's Statement of Licensing Policy consultation, Avon and Somerset Constabulary asked the Council to consider adopting a special policy on cumulative impact, i.e. the potential impact on the promotion of the Licensing Objectives where there are a significant number of licensed premises concentrated in one area.
- 1.3 The Licensing Authority recognises that the impact of longer hours or concentration of premises in some areas can be greater than the impact of customers from any individual premises. Avon and Somerset Constabulary have provided the Licensing Authority with statistics evidencing that the number, type and density of premises selling alcohol for consumption is causing problems of nuisance and disorder. It is for this reason the Licensing Authority has adopted a Cumulative Impact Policy for the area. Whilst this Policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact already being experienced.
- 1.4 This Policy will not, however, be used as grounds for revoking an existing licence or certificate where relevant representations are received. After a licence or certificate has been granted, a complaint relating to a general situation regarding crime and disorder or nuisance in the town centre would not generally be regarded as a relevant representation if it cannot be positively tied or linked to a particular premise. In this context, it should be noted that the 'cumulative impact' on the promotion of the Licensing Objectives of a concentration of multiple licensed premises is only relevant when a new application, variation or material variation is being considered.
- 1.5 In its previous Licensing Policy Statement, the Licensing Authority stated that it would consider any recommendations put forward on cumulative impact. The police have presented evidence to support the continuance of this policy in specified areas of Yeovil and Chard. Following consultation, the area to which this policy will apply has been determined as the area consisting of the streets listed below. An indication of that area is as set out below:

Yeovil – Stars Lane, Middle Street, South Street from its junction with Bond Street to Stars Lane and South Western Terrace

Chard – High Street from its junction with Holyrood Street and Combe Street in a westerly direction to its junction with Crowshute link  
Fore Street from its junction with Silver Street in a westerly direction to its junction with Holyrood Street and Combe Street

1.6 These areas have been identified because the Licensing Authority believes that the cumulative impact of the number and concentration of licensed premises in this area is adversely affecting the promotion of the following Licensing Objectives:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance

## **2.0 Objectives**

2.1 The objectives of this Cumulative Impact Policy are:

- a) To reduce both crime and disorder and public nuisance by resisting applications for licensed premises where a concentration of licensed premises in a particular area is considered to be causing a cumulative impact on one or more of the Licensing Objectives; and
- b) To review carefully all new and variation applications for licensed premises in the Yeovil and Chard town centre areas.

## **3.0 Implications on Applications and Variation**

3.1 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.

3.2 The effect of this Cumulative Impact Policy is that it creates a presumption that an application for a new licence/certificate, or a full variation will normally be refused if relevant representations regarding crime and disorder and/or public nuisance are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Material variations include, for example, extension of operating hours, an increase in capacity, or the inclusion or removal of licensing conditions; however each case will be treated on an individual basis. Where an application is made for minor structural alterations that do not affect the capacity of a venue, the Licensing Authority does not consider this to be a material variation.

3.3 However, this presumption does not relieve Responsible Authorities or Other Persons of the need to make a relevant representation. If no relevant representations are received, the application must be granted in terms that are consistent with the operating schedule submitted and any mandatory conditions required by the Act.

3.4 There are, however, examples where licensees could rebut the presumption of refusal in this Cumulative Impact Policy by providing measures for inclusion in their Operating Schedule so that their licensed premises would not cause a potential problem on the cumulative impact area. Some examples of measures could be to ensure there is sufficient taxi provision to disperse customers; ensuring there are sufficient door supervisors to control flashpoints, ensuring there is an effective queuing process in place to prevent crowds gathering;

working closely with the Police and the Pubwatch scheme to discourage large numbers of people moving between premises; provision of CCTV system linked to a time and date recording facility and providing shatter proof glasses. Another examples are to ensure a calming atmosphere prior to closing time by operating a policy of lowering the volume of music and raising lights during the last 30 minutes before closing or stopping alcohol sales 30 minutes prior to closing. This list is not exhaustive.

#### **4.0 Background**

4.1 The Council adopted the cumulative impact policy in January 2010; it is under an obligation to keep it under review so that it relates only to the areas where problems are experienced. Crime relating to alcohol induced offences mainly relates to the Night Time Economy (NTE), which is defined as 20:00 to 04:00 on Thursday/Friday, Friday/Saturday and Saturday/Sunday.

4.2 The designated cumulative impact area which is already of concern to some responsible authorities and has the highest levels of alcohol-related crime and disorder therefore if more licensed premises of the same nature were to be established it would not only impact on the Police but also on other service providers such as the ambulance service and street cleansing services.

4.3 It is believed that without this special policy and cumulative impact area, the Licensing Authority will have difficulty in fulfilling its stated licensing objectives.

#### **5.0 Evidence**

Avon and Somerset Constabulary have provided figures below for the period 01/04/12 – 31/03/13 and 01/04/11 – 31/03/12 which show that NTE offences are still concentrated within the named streets in Yeovil and Chard

##### **Night Time Economy Offences - in the vicinity of licensed premises**

<b>Location</b>	<b>20011/12</b>	<b>2012/13</b>	<b>2011-13 Total</b>
Stars Lane, Yeovil	79	97*	176
Middle Street, Yeovil	99	51	150
High Street Chard	40	45	85
Fore Street, Chard	125**	47	172

\*As an update to the above figures for Stars Lane in Yeovil in the period 28 September 2012 to 27 September 2013, the number of Night Time Economy (NTE) offences is 142.

\*\*These figures also include shoplifting offences, so are not just for NTE offences.

The number of NTE offences for South Western Terrace, Yeovil is 26 for the period 1<sup>st</sup> January – 27 September 2013.

In Yeovil, South Street, Tabernacle Lane and Lysander Road have suffered NTE assessed offences in the 10's, which show the concentration as mainly being in Stars Lane and Middle Street.

## **Night Time Economy Offences**

<b>Location</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2011-13 Total</b>
Yeovil Town Centre	246	169	415
Chard Town Centre	82	48	130

### **6.0 Conclusion**

- 6.1 Although the picture is showing a marked improvement overall in most streets compared to the figures for 2008/09 and 2009/2010, it is felt that the policy should stay in place until the Council is satisfied that the number of NTE offences have decreased to the extent the policy is no longer necessary or that certain streets can be removed from its scope. The Council also may add streets to the policy if evidence proves that this step would promote the licensing objectives.
- 6.2 The conclusion drawn in respect of this evidence is that this Policy should still aim to limit the numbers of new pubs, clubs and bars that focus on the sale of alcohol and should also seek to ensure that other potential licensed premises seeking to sell alcohol in this area be carefully considered to ensure that they will not have a negative impact on the area.
- 6.3 Experience shows that where there is a concentration of licensed premises, there will be the most potential for violence and disorder. This may be exacerbated by hot food takeaways situated in the same area that prolong the time it takes for crowds to disperse when licensed premises close at the end of an evening. Special consideration should therefore also be given to applications for take-away premises.

### **7.0 Review**

- 7.1 The Licensing Authority intends to keep this Cumulative Impact Policy under review; the review to be triggered by significant changes in the crime and disorder statistics supplied Avon and Somerset Constabulary.
- 7.2 It is important to note that this Policy does not seek to prevent all new or varied licence applications. All applications will be considered on their own merit whilst taking into account the aims and objectives of this Policy.

## APPENDIX C

### CONTACT ADDRESSES AND TELEPHONE NUMBERS FOR RESPONSIBLE AUTHORITIES FOR SOUTH SOMERSET DISTRICT COUNCIL

RESPONSIBLE AUTHORITY	ADDRESS	TELEPHONE NUMBER
<b>Avon and Somerset Constabulary</b>	Liquor Licensing Bureau PO Box 3115 Bristol BS1 9GF	0117 9455195
<b>Fire Authority</b>	The Station Officer, The Fire Station, Yeovil, Somerset, BA20 1JF	01935 382000
<b>South Somerset District Council (Environmental Protection)</b>	Environmental Protection Team The Council Offices Brympton Way Yeovil Somerset BA20 2HT	01458 257445
<b>South Somerset District Council (Planning Department )</b>	Planning Department Council Offices Brympton Way Yeovil Somerset, BA20 2HT	01935 462462
<b>South Somerset District Council (Licensing Responsible Authority)</b>	Nigel Marston Licensing Manager Council Offices Brympton Way Yeovil Somerset, BA20 2HT	01935 462462
<b>South Somerset District Council (Health and Safety)</b>	Food & Safety Team Council Offices Brympton Way Yeovil Somerset, BA20 2HT	01935 462462
<b>Health and Safety Executive (for schools, colleges, universities and factories)</b>	4th Floor The Pithay All Saints Street Bristol, BS1 1ND	0117 988 6000
<b>NHS Somerset – Public Health</b>	Public Health Somerset County Council A3W County Hall Taunton TA1 4DY	01823 357207
<b>Social Services – Somerset County Council</b>	FAO Ms Janice Langford Maltravers House Petters Way Yeovil Somerset, BA20 1SP	01935 422111
<b>Trading Standards</b>	Trading Standards Service County Hall Taunton Somerset, TA1 4DY	01823 357261
<b>Responsible Authority for Vessels (for the whole of the Southwest)</b>	FAO Tony Heslop Maritime & Coastguard Agency Plymouth Marine Office, Western Region, New Fish Market, Fish Quay Plymouth, PL4 0LH	01752 266211

