

South Hams District Council

LICENSING POLICY 2008/11 (Licensing Act 2003) CONSULTATION RESPONSES

NAME & ADDRESS	COMMENTS	APPRAISAL	RESPONSES
<p>Chief Superintendent B Marsden Devon & Cornwall Constabulary Paignton Police Station PO Box 1 Paignton TQ3 2Y F</p>	<p>You will be aware that the local police licensing office receives a significant number of Temporary Event Notices and, as a result I would ask that an additional comment be inserted into the relevant paragraph, page 34.</p> <p>‘The notice must be given to the licensing authority and the police no later than ten (10) working days before the day on which the event begins.’</p>	<p>Agreed</p> <p>This paragraph to be added under Temporary Event Notice on page 34 but it is reiterating that on page 30 para 19.3</p>	<p>Amend text on page 34</p>
<p>Mr N. Jones Devon & Somerset Fire & Rescue Service Glen Road Plympton Plymouth PL7 2XT</p>	<p>The main changes, as pointed out from the existing policy, do not appear to affect the licensing objectives and are therefore of no concern to the Fire Authority. H.M. Government Guide: located on www.firesafetyguides.communities.gov.uk.</p> <ol style="list-style-type: none"> 1. Small & medium places of assembly (up to about 300). 2. Large places of assembly. 3. Theatres, cinemas and similar places. 4. Open air events and venues. 5. Means of escape for disabled people 	<p>Agreed</p> <p>In paragraph 2.6.4 (page 14) add Fire safety guidance located under www.firesafetyguides.communities.gov.uk</p> <ol style="list-style-type: none"> 1.Small & medium places of assembly (up to about 300). 2. Large places of assembly. 3.Theatres, cinemas and similar places. 4. Open air events and venues. 5. Means of escape for disabled people 	<p>Amend page 14 paragraph 2.6.4</p>

<p>Dr Virginia Pearson Devon PCT Dean Clarke House Southernhay East Exeter EX1 1PQ</p>	<p>Introduction - It is encouraging that the District Council states that one of the two prime needs in adopting the policy is <i>a safe and healthy environment in which residents can live.</i></p> <p>Description of the Licensing Authority Area – within this section there are two particular statements to be endorsed;</p> <ul style="list-style-type: none"> • Towns and villages need to be seen as places where young families and the elderly can at all times venture in safety. • Applicantsseeking Temporary Events (TENs) will be expected to give consideration to the Licensing Authorities concern as to 	<p>Only the Police can make representations to the notification of a TEN on the Crime and Disorder objective</p> <p>The promotion of good health/prevention of ill health are not licensable objectives under the 2003 Act.</p>	<p>No amendments needed</p> <p>No amendments needed</p>
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	<p>reducing alcohol related violence and disorder when making applications or serving TENS.</p> <p>Data – the impact on crime and health services across the periods of Friday and Saturday nights reinforces the need for the Licensing Authority to consider specific conditions in relation to applications covering these periods.</p> <p>2.Licensing Objectives</p> <p>Whilst recognising that licensing objectives are set nationally, it is worthy of note that in 2.1 there is no specific objective in relation to the promotion of good health/prevention of ill health.</p> <p>There are references within the objectives and I would wish priority to be given to the following specific health related</p>	<p>The measures are already in paragraph 2.3.1, 2.3.2 & 2.3.4.</p>	<p>No amendments needed</p>
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	<p>measures when considering applications:</p> <p>2.3.1 Prevention of crime and disorder</p> <ul style="list-style-type: none"> ▪ Measures to prevent binge drinking ▪ The use of plastic bottles and toughened glass <p>2.3.2 Public safety</p> <ul style="list-style-type: none"> ▪ Promotion of sensible drinking ▪ Prevention of drink spiking ▪ Drug policy ▪ Safe capacity <p>2.3.4. Protection of Children from Harm</p> <p>7.Children and Licensed Premises</p> <p>The increase in binge drinking by young people</p>	<p>Mandatory condition. Is attached to all premises selling alcohol</p> <p>Supportive comments by Dr Pearson</p>	<p>No amendment needed</p> <p>No amendment needed</p>
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	<p>and the consequent increase in alcohol related illness in adults warrants the logical and pragmatic approach set out in this section particularly in relation to the actions set out in 7.8 dealing with serving to minors and premises associations with drug taking, gambling or entertainment of a sexual nature.</p> <p>12. Drugs</p> <p>The possible link between drug use and some licensed premises is well made and the stated actions are appropriate.</p> <p>13. Door Supervisors</p> <p>Compliance with the appropriate legislation for all door supervisors is fully supported.</p> <p>Summary</p>		
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	<p>The draft statement of licensing policy sets out a range of actions that maintain a balance between creating environments that allow people to enjoy their drinking whilst limiting the potential risks to communities in relation to the associated health or social impacts of alcohol misuse. I am particularly encouraged by the frequent references to the licensing policy being part of a co-ordinated approach through the local Community Safety Partnership.</p>		
<p>Rod Horne Holbeton Parish Council 2 Battisborough Cross Holbeton PL8 1JT</p>	<p>Reference para 19. Temporary Event Notice</p> <p>Although not stated within the text of the draft Statement of Licencing Policy, it was commented</p>	<p>Agreed but the Government have looked at this as part of the licensing review process and decided there should be no change for the TEN's fee or procedure.</p> <p>Outside the power of this authority</p>	<p>No amendments needed</p>

	<p>on by a local organization that the issue of TENs can at times be inflexible. An example of this is when a club organizes an open air summer event. Application for a TEN must realistically be made 2 or 3 weeks before the event, and once granted will be valid only for that day. As has been the case with one club, the event had to be cancelled because of bad weather. The event was rescheduled for the following week but there was not enough time to reapply for a TEN. Also, had there been time, a further fee would have been payable for what is essentially the same event. Small clubs that run these fund raising events cannot afford this extra expense. It seems a simple process to have flexibility in the initial TEN application to have a standby date to account</p>		
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	<p>for cancellation. Under the old system when licenses were granted through the courts, a number of planned events, on pre-determined days, could be applied for under the one application and one fee. This would seem a reasonable way of granting TENs under the local authority system.</p>		
<p>Gill Claydon Stokenham Parish Coucil Highfield Kiln Lane Nr Kingsbridge TQ7 2SF</p>	<p>Councillors have now had time to consider this document and are aware that most changes are merely updating in line with the new Gambling Act and therefore support such.</p> <p>Having gone through this document councillors would like to take this opportunity to request</p>	<p>Now have a separate policy covering Gambling Act 2005 (named Statement of Principles) so as to differentiate to the Licensing Act policy and Gambling Act Statement of Principals</p> <p>Under the Local Government (Misc Provisions) Act Town and parish Cllrs were notified and asked for comments. District/town and Parish Cllrs are no longer statutory consultees but as best practice and to keep all parties informed we list all new applications on the website for the 28 day consultation period.</p> <p>Agreed to contact all Parish Councils with our email link address for new premises applications</p>	<p>No amendments needed</p> <p>No amendments needed</p>

	that parish and town councils be included, albeit not required through legislation, as a consultee or at least notified when licensing applications are made. This is due to councillors being aware that their knowledge and understanding of the area and its needs can also highlight a wider view.		No amendments needed
Mrs Julia Willoughby South Brent Parish Council Nine Oaks Didworthy Cottages South Brent TQ10 9EF	Parish Councils should be consultees on all individual licensing applications and the new Act fails to acknowledge Parish Councils' input.	As above	No amendments needed
Cornworthy Parish Council c/o Isis, Abbey Road Cornworthy Nr Totnes TQ9 7OS	Overall, members were satisfied with the proposed Licensing Policy although amazed by the increase in Totnes! Hope this can do something about problem as increase in Totnes <u>so</u> high! Let common sense prevail!	Referring to the latest 'intoxicating substance' related violent crime in public space statistics on page 6. Included in response letter licensing department will acknowledge problems in Totnes and inform that they are working with the Police.	No amendments needed

<p>Dartmouth Town Council Guildhall Dartmouth TQ6 9RY</p>	<p>They wished to seek clarification as to how statistics are compiled relating to crime figures. A response therefore would be appreciated.</p>	<p>Statistics came direct from the constabulary</p>	<p>No amendments needed</p>
<p>Joan Taylor taylorindevon@yahoo.co.uk</p>	<p>My experience is minimal having only applied for the occasional TEN for the Chivelstone Parish Community Hall. The Government is seeing the effects of the 24 hour policy with the rise of alcohol related problems to health to the young and the problems at A & E in hospitals. Looking after the young seems to be in the report but forgotten by Government. If tax on alcohol is increased then the Government will doubtless not wish to cut drinking as that would reduce its tax revenue. Cynical I regret. Salcombe reduced its troubles by the prohibition of street drinking. It is now only troubled by the</p>	<p>Kingsbridge Town now has an alcohol Designation Order in place giving the Police power of arrest</p> <p>Venus Café in East Portlemouth (on the opposite side of the estuary to Salcombe) was recently refused a Premises Licence to sell alcohol. This hamlet has no outlets selling alcohol.</p>	<p>Supportive comments</p> <p>No amendments needed</p>

	<p>late delivery by bus of the Fusion/Kingsbridge revellers delivered singing and shouting around the town I believe. Presumably Kingsbridge would be wise to follow suit in the total prohibition of drinking in the streets, if it has not already done so.</p> <p>The Venus Café was refused a licence at its café in East Portlemouth which will assist in keeping the troubles in that far flung post of the Empire to less than it would otherwise have been. So the democratic system seems to work. Thank you for consulting.</p>		
<p>Rob Hayward,OBE British Beer & Pub Assn Market Towers 1 Nine Elms Lane London SW8 5NQ</p>	<p>The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of</p>		

	<p>our members own and run pubs in South Hams. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies, which includes security in design, drugs, drinks promotions, noise control and health and safety.</p> <p>The Association would like to be a consultee as part of the consultation process on any revisions to your local licensing policy, which is required under the Licensing Act 2003 to be newly determined by January 2008.</p> <p>The BBPA believes that the implementation of the Licensing Act 2003 has been successful to date and is encouraged by reports of decreased</p>	<p>Not sure where this information came from or is ever supported</p> <p>Not in our draft policy</p> <p>Suggested but not a blanket or standard condition. Page 10, 11, 12</p> <p>Our policy (18.1) says we would normally expect the DPS to be present on the premises on a regular basis</p>	<p>No amendments needed</p> <p>No amendments needed</p> <p>No amendments needed</p> <p>No amendments needed</p>
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	<p>levels of disorder associated with licensed premises. We would, however, take this opportunity to draw your attention to the following issues which have already appeared in some draft policies, and which we consider to be outside the scope of licensing policies since they go beyond the provisions of the Licensing Act itself by requiring, for example:</p> <ul style="list-style-type: none"> • applications to be completed in a specific manner, other than that prescribed in regulations. • blanket or standard conditions on licenses eg. CCTV, hours, use of polycarbonate/plastic glasses, capacity limits, membership and 	<p>Not on ours – a worthy suggestion – but not enforceable Not on our policy</p> <p>The avoidance of duplicated legislation is already dealt with on page 24 paragraph 9</p> <p>We are aware of this judgement</p>	<p>No amendments needed</p> <p>No amendments needed</p>
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	<p>attendance at Pubwatch meetings etc.</p> <ul style="list-style-type: none"> • the Designated Premises Supervisor to be on the premises at all times, or to have a specific level of experience, training or qualification in addition to the personal licence qualification etc. • written authorisation for the sale of alcohol • more than one personal licence holder on the premises • health and safety measures (eg. smoking, fire etc.), disability provisions that duplicate existing legislation <p>You may be aware that</p>		<p>No amendments needed</p>
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	<p>during the previous round of consultation on local licensing policies prior to the implementation of the Licensing Act, the Association was successful in seeking a Judicial Review of the licensing policy produced by Canterbury City Council. In his judgement (BBPA and others v Canterbury City Council 25.06.05), Mr Justice Richards made it clear that local policies should not <i>“prescribe or dictate the contents of an application, or give the impression that the Council will assess, and exercise substantive discretionary powers in relation to, all applications and not just those that come through for a decision under section 18(3)... The licensing authority has no power at all to lay down the contents of an application and has no</i></p>		
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	<p><i>power to assess an application, or to exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision-making function under section 18(3) is engaged. If a policy creates a different impression, and in particular if it misleads an applicant into believing that he must meet certain requirements in relation to his applicant and that he lacks the freedom accorded to him by the Act and Regulations, the policy is contrary to the legislative scheme and is unlawful...</i></p> <p>The Association has welcomed the improved communication and liaison between local authorities and the licensed trade resulting from our closer working relationship under the Licensing Act, and hope</p>		
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	that any issues that may arise during the current policy consultation can be discussed and resolved.		
Linette Avery Plymouth & South West Co-operative Society Ltd Third Floor 88 Royal Parade, Plymouth PL1 1HA	The Society has no comments in respect of the proposed policy but would mention that there are numerous typographical and factual errors in the description of the Licensing Authority, in particular with the inclusion of Tavistock, Okehampton and Bere within the statistics for South Hams when they are not in the Council's area.	Remove top 10 neighbourhood statistics at bottom of page 6 and top of page 7 policy to be proof read	Remove statistics on bottom of page 6 and top of page 7. Proof read
William A May 12A Victoria Road Dartmouth TQ6 9SA	The guidance and objectives set out in the document seem clear, bearing in mind that very few, if any, would be aware of the relevant Legislation and Acts involved. The one objective that is possibly most vague is the third one of the Prevention of Public Nuisance. Noise around	Some very valid concerns and we have received some complaints of noise issues since the smoking legislation came into force on 1.7.07. The type/style of notice displayed on premises for new/variation are set out by regulations. An advert has to be placed in local	No amendments needed Until changes in

	<p>residential areas is always a problem and this has been exacerbated now since 1st July 2007 and the smoking ban, with narrow pavements blocked by smoking and drinking public house customers. Whilst conditions are set out for applicants and due consideration to be taken by the Licensing Committee, there does not seem to be a hard and fast information system for neighbours, should they not happen to see a small application sheet stuck in a window or door. In some way the locality should be consulted so that a consensus may be found between all involved. Generally, the policy seems well considered where responsible licensees should be able to understand exactly what is expected of them. Unfortunately, those less</p>	<p>newspaper circulating in the area. This is something the Government are considering and should there be a mail shot to residents rather than a newspaper advert which possibly only 2% of persons in the vicinity see.</p>	<p>primary/secondary legislation – No amendments needed</p>
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	<p>responsible may require a greater policing. I appreciate being asked to comment on the document and if I can assist in anything further, please do not hesitate to contact me.</p>		
<p>Tom Hutchings J.C. & R.H.Palmer Ltd Old Brewery, Bridport Dorset DT6 4JA</p>	<p>I write with particular regard to the proposed statement on Page 20/section 6/subsection 6. “There is no presumption within the legislation for longer opening hours.”</p> <ul style="list-style-type: none"> • This runs contrary to the aim and spirit of the act as well as government guidelines (Section 182). • It is designed to introduce a more modern and flexible approach when meeting the needs of the consumer. It 	<p>Refer to Page 20/Section 6/Line 6 There has always been a general misconception that the new act allowed 24 hour opening /drinking, this has never been the case.</p> <p>New Government guidance issued under S.182. came into force when laid before Parliament on 28th June 2007. Paragraph 10.20 under hours of trading says <i>‘However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and or different hours from those requested.’</i></p>	<p>No amendments needed</p> <p>No amendments needed</p>

	<p>allows for the removal of obstacles to the further development of the tourist, retail, hospitality and leisure industry.</p> <ul style="list-style-type: none"> • The act encourages a longer period of activity to allow a more gradual dispersal of customers, easing pressure on public transport and taxi services etc. As well as reducing potential anti-social behaviour and noise nuisance in the vicinity. • The act encourages a more continental experience balancing longer hours against tighter regulations and control. 		
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	<ul style="list-style-type: none"> The act makes it a duty for licensing authorities to grant the hours applied for in the absence of a relevant representation. If the enforcement of the licensing objectives becomes compromised then at this stage conditions may be appropriate. <p>I would be grateful if you would include this response to your letter of May 15th 2007 and acknowledge receipt of this submission, please.</p>		
R.H. Wigfall Dartmoor Masonic Lodge Social Club	Have read the draft statement on proposed licensing policy for 2008-2011. It seems quite reasonable and we have no comment to make at this time.		No amendment needed
R. Newnham Silver Jubilee Hall Down	No comments. We rarely sell alcohol.	Licensing department will provide advice to the trustees of the Silver Jubilee Hall	No amendment needed

Thomas c/o Three Jays Spring Road Wembury Point, Plymouth	It might be helpful in the next triennial consultation if some best practices could be conveyed for organisations such as village hall committees where problems are likely to arise. We do not sell alcohol of an evening but much can be consumed at private parties and dances etc where people bring their own drinks.		
Terry Gibbons Thurlestone Golf Club 41 Weymouth Park Hope Cove Kingsbridge TQ7 3HD	No comments.		No amendment needed
Mike Sorman Greenlife 11-13 Fore Street Totnes TQ9 5XW	Paragraph 2.1 to 2.4 Very reassuring to hear of measures being undertaken to control alcohol related behaviour – much more CCTV is needed in Totnes Town!	Comment noted	No amendment needed
Cllr Mark Lawrence (Erme Valley)	I've read the draft and have no comments to make on it. Mark Lawrence (Erme Valley)		No amendment needed

Miss G Webb C/o Modbury Memorial Hall Back Street Ivybridge PL21 0RF	Draft Licensing Policy for 2008-2011 This has been considered by the management committee of Modbury Memorial Hall and the members have no comment to make on the contents of the draft.		No amendment needed
Brian Lowe C/O Kingsbridge RFC High House Kingsbridge TQ7 1JL	With reference to your consultation document, we have no specific comments, other than the fact that we have noted the documents contents. We have had a no specific incidents involving behaviour relating to excess consumption of alcohol, although we are very aware that our sport has a social link to the consumption of alcohol		No amendment needed
Martin Johnson Town Clerk Kingsbridge Town Council Quay House Ilbert Road Kingsbridge TQ7 1DZ	Council has reviewed and considered the document and has nil comments to add.		No amendment needed
Licensing Committee			

<p>(working group meeting 4.9.07) with Licensing Staff</p> <p>Cllr John Baverstock Cllr John Carter Cllr Ian Blackler Cllr Colin Jones Cllr Keith Baldry Cllr Brian Carson</p>	<p>Page 3 / 4 Forward by Jessa Jowel has been superseded by new guidance 28 June 2007</p>	<p>Replace with updated forward:</p> <p>“Thanks to the exceptional efforts of many officers and councillors in local authorities, the Licensing Act 2003 came into force on 24 November 2005 and it immediately began to give local people a bigger voice in licensing decisions and to help local authorities’ broader efforts to create safer and more civilised evening and night-time economies.</p> <p>It also began to add impetus to our aims of providing a better system of regulation for business, greater choice for consumers and where possible, help for areas in need of economic regeneration.</p> <p>We were criticised by some for our conviction that these major changes would have a positive impact on and support our wider strategy for tackling crime and disorder, under-age drinking, public nuisance and anti-social behaviour.</p> <p>We now have a clearer picture of how the Act is working in practice and I am greatly encouraged by the very positive feedback we are receiving from licensing authorities, local residents, the police and the licensed trade.</p> <p>There is evidence that licensees have made good progress towards taking seriously their responsibilities under the Act and are actively working with the police and each other to eliminate sales of alcohol to underage drinkers and to combat alcohol related crime and disorder”.</p> <p>“Local people are starting to show a much greater</p>	<p>To amend pages 3 and 4 with update.</p>
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	<p>Para 1.1 Bring forward effective date of policy to January 2008</p> <p>2.6.3 Briefly explain the Hampton principals</p>	<p>understanding of their rights to make objections and seek reviews and are becoming more aware of and engaged in the licensing process. Representations from residents have resulted in new conditions being placed on thousands of licences and often this has been achieved through mediation without the need to go to a formal hearing”.</p> <p>“We will, of course, continue to monitor the impact of the Act on the licensing objectives and if necessary, consider the introduction of further legislation with the consent of Parliament to strengthen or alter any provisions”.</p> <p>January 7th 2008 [The Licensing Act 2003 (Licence statement period) Order 2004) Stat. Inst. 2004 No.2362</p> <p>Add to glossary</p> <p>Implementing Hampton: from enforcement to compliance</p> <p>What it will deliver – full implementation of the Hampton principles will result in more proportionate and risk-based compliance and enforcement activity, meaning fewer forms, no inspection without a reason, better advice for businesses, and swift treatment of non-compliance with meaningful sanctions.</p>	<p>Amend Para 1.1</p> <p>Add to glossary</p>
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	2.6.4 Define LACORS	<p>The Hampton principles are:</p> <ul style="list-style-type: none"> ▪ regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most; ▪ regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take; ▪ no inspection should take place without a reason; ▪ businesses should not have to give unnecessary information, nor give the same piece of information twice; ▪ the few businesses that persistently break regulations should be identified quickly; ▪ regulators should provide authoritative, accessible advice easily and cheaply; and ▪ regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection. <p>http://www.hm-treasury.gov.uk/media/0/B/hampton_compliance281106.pdf</p>	Amend Policy at
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	<p>and TSI</p> <p>5.6 Remove 7th bullet point “The power of the police, local businesses or residents to demand a review of the licence”</p> <p>Reword paragraph 11.5 from ‘where premises are licensed to sell or supply alcohol licensing authority will expect a personal licence holder to normally be present on the premises at all times when there are sales/supply of alcohol taking place’</p> <p>Paragraph 19.5 ‘The licensing authority will advise other responsible authorities of TEN’s served. Those authorities may address issues of concern under their own regulatory powers’</p>	<p>Local Authorities Co-ordinating Office on regulatory service (LACORS)</p> <p>Trading Standards Institute (TSI)</p> <p>This is a licensing function not an alternative mechanism</p> <p>Replace paragraph 11.5 with ‘Where premises are licensed to sell or supply alcohol the licensing authority will generally prefer a personal licence holder to be present on the premises at all times when there are sales or the supply of alcohol taking place’</p> <p>Paragraph 19.5 to be removed</p>	<p>2.6.4</p> <p>Remove 7th bullet point in 5.6</p> <p>Reword paragraph 11.5</p> <p>Paragraph 19.5 to be removed</p>
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	<p>Page 30 Para 19. Wording <i>See also glossary on page 34</i> to be added</p> <p>Page 34 Next to Temporary Event the wording '<i>Also see page 30 for Temporary Event Notice</i>' to be added</p> <p>Punctuation/spelling/explanation/clarification amendments: Page 2 Page 4 Page 5 Page 11 Page 12 Page 15 at 2.11 / 3.2 Page 17 Page 18 Page 20 Page 23 Page 30 Page 31 x3 amendments Page 35</p>	<p>Wording to be added</p> <p>Wording to be added</p> <p>Minor grammatical amendments</p>	<p>Para 19 to be amended</p> <p>Page 34 to be amended.</p> <p>To amend</p>
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