



**South Hams  
District Council**

# **Statement of Licensing Policy**

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**UNDER THE LICENSING ACT 2003**

For the period 7<sup>th</sup> January 2011 to 6<sup>th</sup> January 2014

(Approved by Full Council on 16<sup>th</sup> December 2010)

(Responsible Authorities updated 27<sup>th</sup> October 2010)

(Equality impact assessment updated 27<sup>th</sup> October 2010)

# Statement of Licensing Policy

Building a fair and prosperous society in which the rights and responsibilities of individuals are properly balanced

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## Introduction

The purpose of this document, being the Council's licensing statement, is to set out the policies the Council will normally apply to meet the licensing objectives when making decisions on any licence application under the Licensing Act 2003 ('the Act').

The aim of the policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The South Hams District Council, in adopting this licensing policy, recognises two prime needs:

- a safe and healthy environment in which residents can live and
- well run entertainment premises contributing to both the local economy and vibrancy of the District.

To achieve this aim the Council is committed to partnership working with the Community Safety Partnership (CSP), the police, fire service, local businesses, licensing trade, residents and others towards the promotion of the objectives as set out in this policy.

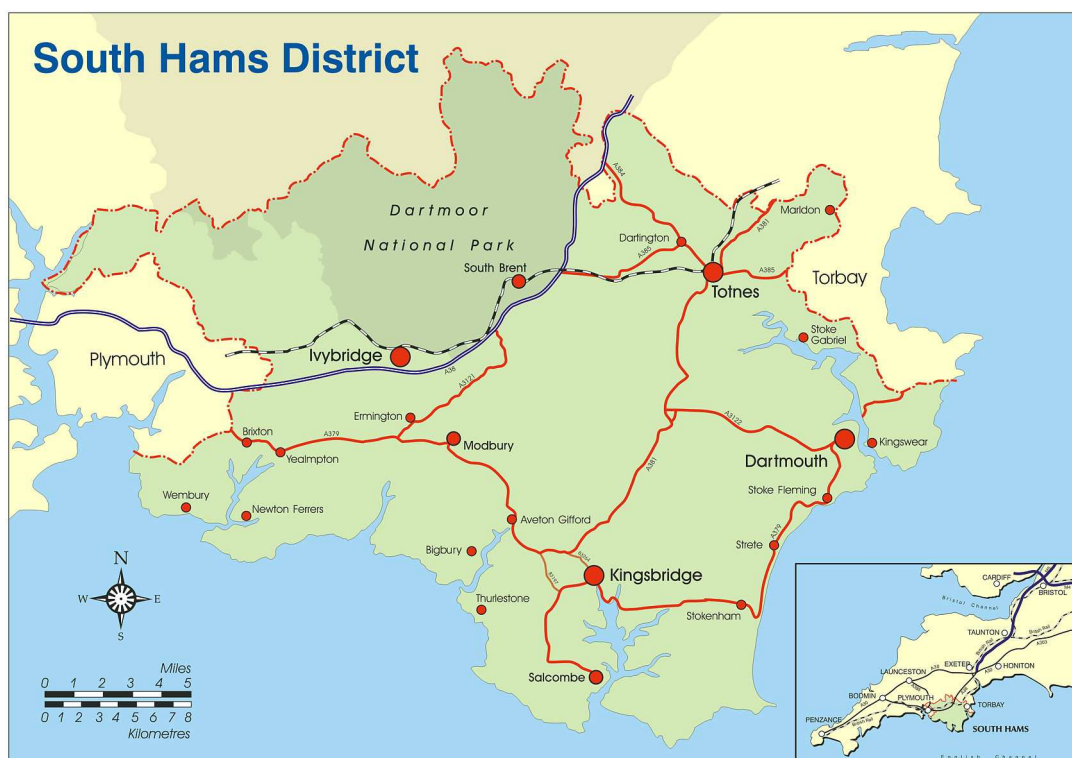
This policy provides information and guidance to licence applicants, Interested Parties and Responsible Authorities on the general approach that the licensing authority will take in terms of licensing. Although each application will be considered individually on its own merits, the Council in adopting this licensing policy is indicating that wider considerations will be taken into account in making an appropriate determination.

In accordance with the statutory procedures, this policy will be kept under constant review. A full review will take place in three years' time, to take into account information collated over a period of time, coupled with the outcomes of initiatives relating to alcohol and entertainment at central and local government level.

In the preparation and publication of this policy the South Hams District Council as the licensing authority has had regard to the guidance issued by the Secretary of State for Culture, Media and Sport (the DCMS) under Section 182 of the Licensing Act 2003.

Fees and the application process are set by the Secretary of State by Regulations and nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.

## Description of the Licensing Authority Area



The South Hams reaches into the Dartmoor hills to the north and enjoys some 60 miles of magnificent coast to the south. The City of Plymouth lies to the west and the urban area of Torbay to the east. Within the South Hams there are no conurbations. It has a population of about 87,000 with about one third of the population living in the four towns of Dartmouth, Ivybridge, Kingsbridge and Totnes, with some 57,000 people living in the villages, hamlets and isolated cottages spread across the 350 square miles of rich, natural beauty.

The unitary authority of Plymouth is to the west and Torbay to the east. The South Hams has approximately 550 licensed premises, the majority of which are authorised to sell alcohol. Of these, 20% will be traditional style pubs or members clubs.

A significant number of South Hams residents (24%) are retired (compared with 18% in England and Wales) and the average house price in the district is now £308,000 (2009). The relatively good economic performance is tempered by four things – very high house prices, a shortage of suitable skills, hidden deprivation, and a lack of available land and premises.

Apart from the A38 trunk road linking the M5 motorway with Cornwall, the vast majority of the district's roads are slow and public transport is limited. Some roads have 20mph limits in force.

There are almost 4,000 businesses in the South Hams of which 65% employ five people or fewer. Levels of entrepreneurship are second highest in the South West with 48 VAT-registered firms per 10,000 population (compared with the UK average of 40). Very significant is the number of people in the South Hams that work from home, 15.7% of the working population compared to 9.2% for England

Unemployment in the area is low at 3.6% (national average 5.4%) but the area's appearance conceals the statistic that wages are among the lowest in England and higher wage occupations are underrepresented in the region.

The entertainment industry is a major contributor to the economy of the South Hams. It attracts tourists and local residents, makes for vibrant communities and is a major employer. Tourism makes a significant contribution to the South Hams economy accounting for 8% of employment. The South Hams District Council has a duty to protect both the amenity and the prosperity of its residential population. That population doubles in the summer months with tourists and international visitors who are, in the main, families with young children and retired people.

## **The South Hams District Council (The Licensing Authority)**

### **Statement of Licensing Policy**

- 1.1 This Statement of Licensing Policy is based upon the Licensing Act 2003 ("the Act") and is in line with the Department of Culture, Media and Sport Guidance to local authorities and takes effect from the 7<sup>th</sup> January 2011.
- 1.2 The policy relates to all those licensable activities identified as falling within the provisions of the Act wherever they take place, namely: -
  - Retail sale of alcohol
  - Supply of alcohol to club members
  - Provision of 'regulated entertainment' - to the public, to club members or with a view to profit
    - A performance of a play
    - An exhibition of a film
    - An indoor sporting event
    - Boxing or wrestling entertainment
    - A performance of live music
    - Any playing of recorded music
    - A performance of dance
    - Provision of facilities for making music
    - Provision of facilities for dancing
  - The supply of hot food and /or hot drink from any premises including food stalls between 11pm and 5am.

- Provision of facilities for enabling persons to take part in entertainment consisting of:
  - Making Music
  - Dancing
  - Entertainment of a similar description to making music or for dancing.

The Licensing Act 2003, section 5 requires a licensing authority to prepare and publish a Statement of Licensing Policy every three years.

Such a policy must be published before the authority carries out any function in respect of individual applications made under the Act.

The licensing authority will keep the policy statement under regular review and make such revisions it feels appropriate. Where revisions are made, the licensing authority shall publish a statement of revisions or a revised licensing policy statement.

Officers should be aware of the potential for misunderstanding where English is not the first language.

The Act makes provision for the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshments (premises licence), the supply of alcohol or the provision or regulated entertainment in certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notice).

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

## 2. Licensing Objectives & Related Legislation

2.1 The licensing authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are: -

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

These objectives are the only matters to be taken into account in determining the application and any conditions attached must be necessary to achieve the licensing objectives. Applicants should be aware that the objectives are not solely for premises selling/supplying alcohol but also applicable where regulated entertainment or late night refreshment is provided (between 11.00pm and 5.00am) and includes outdoor events.

2.2 A Licence will only be granted where the licensing authority is satisfied that these objectives have been met.

If there are no relevant representations then an application must be granted and subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.

2.3 The licensing authority requires applicants to address the licensing objectives in their operating schedules having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community. The kind of standards the licensing authority will expect to see will take into account measures including:

**2.3.1 Prevention of Crime and Disorder –**

- Use of CCTV inside and outside the premises, ensuring digital systems comply with Home Office guidance minimum requirements (further information available at <http://rds.homeoffice.gov.uk/rds/cctv2.html>)
- Quality of supervision and surveillance in the premises
- Measures to prevent open bottles or other drinks containers being carried from the premises
- Participation in Pub/Club Watch schemes or Licensee Associations and attendance at meetings
- Use of the appropriate number of security persons and stewards ensuring effective control of the venue at all time
- Restrictions on drinks promotions
- Measures to prevent binge drinking
- The use of toughened glass/polycarbonate or other plastic/non glass bottles /receptacles.
- Training staff in crime prevention matters
- Lighting
- Search procedures
- For new premises – designing out crime
- Marketing promotions that do not encourage excessive consumption of alcohol and promoting sensible and socially responsible drinking
- Regular checks by staff of all public areas including toilets
- Assessment of customer profile ensuring effective management of customers both inside and in outside smoking / external seating areas
- And any other measures deemed to be appropriate

**2.3.2 Public Safety –**

- Promotion of sensible drinking
- Customer profile
- Prevention of drink spiking
- Zero tolerance drug policy including the appropriate use of drug amnesty boxes to combat drug crime
- Monitoring capacities to a safe level with management controls ensuring safe capacities are maintained including premises with more than one floor or zone (including electronic counting where necessary)
- Special arrangements for large events
- Security Staff/Stewards
- Traffic management
- Crowd management
- Noise exposure

- Physical environment of premises
- Use of special effects
- Ventilation and temperature
- Removal of glass / bottles to prevent use as weapons

### **2.3.3 Prevention of Public Nuisance –**

- The nature of the activities
- The location of the premises and the character of the surrounding area in relation to the proximity to residential and other noise sensitive premises.
- Measures to deal with queuing, where necessary
- Traffic management
- Latest admission time.
- Measures to supervise customers use of beer gardens, smoking and external seating areas
- Provision of welfare facilities, ie toilets
- Measures for the limitation of noise emissions from the premises, these may include as appropriate, noise limitation devices, sound insulation, whether windows are to be opened, the installation of acoustic lobbies and double glazing
- Odour and light nuisance
- Litter collection in vicinity including discarded flyers and other promotional material
- Use of outdoor areas
- Winding down periods particularly in public houses and night clubs etc between the end of the sale or supply of alcohol and the closing time of the premises
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated cab firms, notices in the premises requesting customers to respect neighbours
- The availability of public transport
- Disposal of waste, particularly glass
- Use and maintenance of plant, including air extraction and ventilation systems
- Noise from deliveries/collections

### **2.3.4 Protection of Children from Harm –**

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

These Lists are not exhaustive

- 2.4 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a panacea for solving all problems within the community. The licensing authority will therefore continue to work in partnership with its neighbouring authorities, South Hams Community Safety Partnership (CSP), the police, fire authority, local businesses and local people towards the promotion of the objectives as outlined.

#### **Anti-social behaviour**

A minority of consumers will behave badly and unlawfully once away from 'the vicinity' of the premises, and it would generally be unreasonable to expect licence holders to have control over these people. There is recent case law as to whether or not an individual is 'in the vicinity' of the premises but ultimately this will be a matter of fact to be decided by the courts.

The Licensing Act is not a cure-all for all anti-social behaviour. There is a breadth of other strategies for addressing these problems, for example:

- planning controls
- powers of local authorities to designate parts of the local authority areas as places where alcohol may not be consumed publicly
- powers of police and local authorities under the Anti-Social Behaviour Act 2003
- police enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- the prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- confiscation of alcohol from adults and children in designated areas
- police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- the power of the police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate.
- resources of the anti-social behaviour co-ordinator
- Anti-Social Behaviour Priority Action Team working to the CSP.

- 2.5 When making licensing decisions, the licensing authority is bound to have regard to: -

#### 2.5.1 Legislation

- S.17 Crime and Disorder Act 1998
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Equalities Act 2010 (and the antecedent legislation it supersedes)

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

The Council is under a duty to protect the rights of residents to privacy and family life under Article 8 of the European Convention on Human Rights. At the same time, the

Council must recognise the right of legitimate business to operate their premises without unnecessary restraint.

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

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

2.6.1 Legislation

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

2.6.2 Strategies

- Crime and Disorder Reduction Strategy
- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance
- Safer Clubbing

‘Safer Clubbing’ is guidance published by the Home Office (Drugs Prevention Advisory Service). The key issues identified being; prevention of overcrowding, air conditioning and ventilation, availability of drinking water, further measures to combat overheating and overall safety.

2.6.3 Policies

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

2.6.4 Guidance

- The Event Safety Guide – A guide to health, safety and welfare at music and similar outdoor events. (HSE 1999, ISBN 0 7176 2453 6 (The Purple Book)
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network.

Copies of which may be obtained through  
[www.streetartsnetwork.org.uk/cn/publications/index.php](http://www.streetartsnetwork.org.uk/cn/publications/index.php)

- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- Model National Standard Conditions for Places of Entertainment
- Technical Standards for Places of Entertainment
- Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- Local Government Regulation and Trading Standards Institute (TSI) Code of Best Practice on Test Purchasing
- Local Government Regulation policy on large events
- The Security Industry Authority's guidance on security at large outdoor events.
- Fire Safety guidance leaflets
  - <http://www.communities.gov.uk/fire/firesafety/firesafetylaw/aboutguides/>
  - 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

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

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

2.9 The licensing authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.

2.10 In determining a licence application the overriding principle adopted by the licensing authority will be that each application will be determined on its merits. Licence conditions will be tailored to the individual application and only those necessary to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public (e.g. health and safety at work and fire safety legislation).

2.11 There is no presumption within the Act for longer opening hours over objections from local residents and businesses located in the vicinity of

licensed premises. The licensing authority will consider licensing hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Shops and public houses (for pubs see Section 6 re. terminal hours for the sale / supply of alcohol and closing times) will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide and promote a range of entertainment during their operating hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.

- 2.12 The purpose of this policy document is to assist the licensing authority in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the South Hams with some measure of certainty.

### **3. Consultation**

- 3.1 Before determining this policy statement the licensing authority consulted with the following: -
- the Chief Officer of the Devon & Cornwall Constabulary
  - the Devon & Somerset Fire & Rescue Service
  - such persons as the licensing authority considered to be representative of the holders of premises licences issued by this authority
  - such persons as the licensing authority considered to be representative of holders of club premises certificates issued by this authority
  - such persons as the licensing authority considered to be representative of holders of personal licences issued by this authority
  - such other persons as the licensing authority considered to be representative of businesses and residents in the area
- 3.2 Proper weight has been given to the views of all those consulted prior to this policy statement taking effect.
- 3.3 The policy statement will remain in existence for a maximum period of 3 years and will then be subject to review and further consultation.

The licensing authority may consult beyond the statutory requirements to seek comments from particular bodies or representatives of groups associated with the

entertainment industry, arts and culture, the Primary Care Trust, Community Safety Partnership and the legal profession. Those consulted include a body competent to advise on child protection, Weights and Measures (Trading Standards), Health and Safety Executive, Environmental Health, Planning and Building Control, Maritime and Coastguard Agency and the Environment Agency.

## **4. Conditions**

- 4.1 Licensing relates to the control of licensed premises and other events within the terms of the Act and any conditions which may be attached to licences and the various other permissions, which will focus on matters falling within the control of individual licence holders.
- 4.2 These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the licensing authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 4.3 Generally it is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned (see section 2.4), but the licensing authority's discretion may be engaged if there is an evidential link between the disturbance and the licensed venue.
- 4.4 The licensing authority will avoid imposing disproportionate and over burdensome conditions on premises. The licensing authority does not propose to implement standard conditions on licences across the board but instead, if its discretion is engaged, may draw upon the model pool of conditions issued by the Department for Culture Media and Sport (DCMS) and attach conditions as appropriate given the circumstances of each individual case.
- 4.5 The conditions will cover the licensing objectives: -
- prevention of crime and disorder
  - public safety (including fire safety)
  - prevention of public nuisance
  - protection of children from harm.
- 4.6 The licensing authority may impose conditions where existing legislation does not provide adequately for the promotion of the four licensing objectives.

**See the Guidance under Section 182 of the Licensing Act 2003,**

<http://www.homeoffice.gov.uk/publications/alcohol/guidance-section-182-licensing?view=Standard&pubID=836513> which provides a pool of conditions that where appropriate can be used to meet the licensing objectives.

The licensing authority is only able to consider imposing conditions if their discretion has been engaged as a result of relevant representations having been made. If no representations are made, the application must be granted in the terms sought, subject only to conditions which are consistent with the operating schedule and any relevant mandatory conditions in the Act.

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

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

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

Applicants are encouraged to volunteer their own conditions by way of an operating schedule. Where a responsible authority or interested party considers the conditions volunteered by the applicant to be inadequate and makes representation then the licensing authority may, following a hearing, attach further conditions or amend the volunteered conditions if it is considered appropriate to promote the licensing objectives.

## **5. Cumulative Impact**

- 5.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. This should not, however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 5.2 The licensing authority may receive relevant representations from either a “responsible authority” or “an interested party”, that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type, making it a focal point and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any

application. The onus is on any person or organisation making such representations to prove any assertion that the addition of the premises concerned would cause the cumulative impact claimed

- 5.3 The licensing authority will not operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, cinemas and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community. This may result in the amenity of local residents being placed under severe pressure; it will not always be possible to attribute a particular problem to customers of particular premises. This means that whilst enforcement action to ensure conditions are complied with is taken, this may not resolve all problems.
- 5.4 In determining whether to adopt a 'saturation' policy for a particular area the licensing authority may, among other things: -
- gather evidence or identification that a particular concentration of licensed premises in a particular part of the South Hams is considered to be already causing a cumulative impact on one or more of the four licensing objectives by a responsible authority or local residents.
  - identify the area from which problems are arising and the boundaries of that area
  - make an assessment of the causes
  - adopt a policy about future applications for premises within that area.

The effect of adopting a saturation policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.

Applicants would need to address the special policy in their operating schedules in order to rebut such a presumption.

However, a special policy must stress that this presumption does not relieve Responsible Authorities or Interested Parties of the need to make relevant representations before the licensing authority may lawfully consider giving effect to its special policy.

Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer, or should be expanded.

- 5.5 Where there is evidence that a particular area of the South Hams is already suffering adverse effects arising from the concentration of late night premises,

or that residential areas are under stress, this will be taken into account in determining any further applications for premises within the area identified.

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

- The character of the surrounding area
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences
- The nature and character of the proposed operation.

5.6 The licensing authority recognises that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour which occur away from licensed premises. These include: -

- planning controls
- ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others
- powers to designate parts of the District as places where alcohol may not be consumed publicly
- confiscation of alcohol in designated areas
- police enforcement of the law with regard to disorder and anti-social behaviour
- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise
- enforcement action against those selling alcohol to people who are already drunk.
- multi-agency response by the Anti-social Behaviour Priority Action Team and ASB co-ordinator.

5.7 The licensing authority may address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the District.

5.8 Following the consultation process the licensing authority have decided it is not necessary for a special saturation policy in the South Hams at this time.

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

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

In these circumstances, a licensing authority may receive representations from a responsible authority or interested party that an area is becoming saturated with

certain premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. Such representation would need to be based on evidence.

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

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

## 6. Opening Hours

- 6.1 The licensing authority will deal with the issue of licensing hours on the individual merits of each application. When the Authority's discretion is engaged, consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Interested Parties on the basis of the licensing objectives. However, when issuing a licence with hours beyond midnight it is more likely that relevant representations will be made unless there are higher standards of control included within operating schedules in order to promote the licensing objectives especially for premises which are situated near residential areas or in areas where anti-social disorder takes place.
- 6.2 There is no presumption within the legislation for longer opening hours over objections from local residents and businesses located in the vicinity of licensed premises. The licensing authority will consider extensions of hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Entertainment providers will be encouraged to provide and promote a range of entertainment during their opening hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.

Section 2 (Licensing Objectives) above provides guidance to applicants of what the licensing authority will normally expect to see addressed in their operating schedule. Where there are late terminal hours especially on a Friday or Saturday night applicants will normally be required to have a higher degree of consideration to the licensing objectives.

- 6.3 When relevant representations are made to the licensing authority by Interested Parties or Responsible Authorities, concerning the prevention of

crime and disorder licensing objective, the discretion of the licensing authority will be engaged. When considering the representations the licensing authority will give due weight to the alcohol related violence statistics, especially on a Friday and Saturday evening and generally expect premises used for the sale or supply of alcohol or the supply of hot food or hot drinks that wish to operate after midnight, to have CCTV installed inside and outside the premises and included in their operating schedule.

'Drinking Up Time' – It is important for applicants for Premises Licences and Club Premises Certificates to note that there is no additional 'drinking up time' in the 2003 Act. Applicants may wish to stipulate on their operating schedule the 'between times' they propose to sell or supply alcohol to customers and also stipulate the overall times the premises will be open. It therefore follows the applicant may wish to build into their operating schedule sufficient time to allow customers to consume their alcohol and allow sufficient time for the customer to vacate the premises in a quiet and orderly manner and achieve the licensing objectives.

- 6.4 In considering relevant representations, the licensing authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case.
- 6.5 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required. The licensing authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area. The licensing authority will generally require there to be a greater time gap between the terminal hour for the sale or supply of alcohol in premises used primarily for the consumption of alcohol on the premises such as nightclubs and pubs, than those premises where alcohol is very much ancillary to a substantial meal, and the closing time stated on the Premises Licence or Club Premises Certificate.
- 6.6 Zoning refers to the setting of fixed trading hours within a designated area and will not be introduced as this can lead to the significant movement of people across boundaries in search of premises opening later.
- 6.7 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

## 7. Children and Licensed Premises

- 7.1 The licensing authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from physical, moral or psychological harm. In all other cases it will generally be left to the discretion of the licence holder.
- 7.2 When deciding whether to limit the access of children, the licensing authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children would include premises:
- where entertainment of an adult or sexual nature is provided
  - where there is a strong element of gambling taking place
  - with a known association with drug taking or dealing
  - where there have been convictions of current management for serving alcohol to those under 18
  - with a reputation for underage drinking
  - where the supply of alcohol for consumption on the premises is exclusive or primary purpose of the services provided at the premises.
- 7.3 In such circumstances as listed in paragraph 7.2 above the licensing authority would expect for the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule, then if relevant representation are made the licensing authority will consider making such restrictions as are deemed necessary to meet the licensing objectives.
- 7.4 Where the exhibition of films is permitted the authority will expect age restrictions to be complied with in accordance with the British Board of Film Classification's recommendations in respect of the film to be exhibited. Only in exceptional cases will the authority consider variations of this general rule.
- 7.5 Conditions may be imposed, if not covered by other legislation, on licences for premises where children will be present at places of regulated entertainment to the effect that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may also be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances
- 7.6 The options available for limiting access by children would include: -
- a limit on the hours when children may be present
  - a limitation or exclusion when certain activities are taking place
  - the requirement to be accompanied by an adult
  - access may be limited to parts of the premises but not the whole
  - an age limitation (for under 18s).

- 7.7 The licensing authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.
- 7.8 The licensing authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. In such circumstances it may sometimes be necessary to impose a complete ban, or may require limitations on the hours when children may be present, age limitations or conditions requiring an accompanying adult, exclusions during certain activities or of persons under 18 years of age.
- 7.9 In relation to exhibition of films a mandatory condition will apply requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification.
- 7.10 In relation to theatrical entertainment it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be necessary where entertainment is provided specifically for children to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.
- 7.11 The licensing authority recognises Children and Young People's Services of Devon County Council as being competent to advise on matters relating to the protection of children from harm.

If there are no relevant representations then an application must be granted and subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.

The protection of children from harm includes the protection of children from moral, psychological and physical harm, and this would include the protection of children from too early an exposure to strong language and sexual expletives for example in the context of film exhibitions or where adult entertainment is provided.

The Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates, authorising the exhibition of films, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 (the British Board of Film Classification is the only body which has been so designated) or by the licensing authority itself.

## 8. Enforcement

- 8.1 The licensing authority has established protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.
- 8.2 In general, action will only be taken in accordance with agreed enforcement principles and in line with the licensing authority's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 8.3 Where the licensing authority considers that action under its statutory powers is necessary, it may take any of the following steps:
- to modify the conditions of the premises licence (which include adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemptions);
  - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - to suspend the licence for a period not exceeding three months;
  - to revoke the licence.
  - To take no action

In deciding which of these powers to revoke, the licensing authority will so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action will generally be directed at these causes and will be no more than a necessary and proportionate response. For example the licensing authority will be aware of the possibility that the removal and replacement of a designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual. Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented, it will be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

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

- 9.1 By consulting widely prior to this policy statement being published, the licensing authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.
- 9.2 The licensing authority will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination.
- 9.3 Where any protocols to be agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which lead to disorder and disturbance, the licensing authority will aim to inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.
- 9.4 The licensing authority's Licensing Committee will keep itself informed and consider wider issues which may need to be given due consideration when making licensing decisions. These may include:-
- needs of the local tourist economy
  - cultural strategy for the area
  - employment situation in the area and the need for new investment and employment where appropriate
- 9.5 The licensing authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.
- 9.6 In order to avoid duplication with other statutory regimes as far as possible the licensing authority will not attach conditions on a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation e.g. The Health and Safety. At Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

## **10. Other Legislation**

- 10.1 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.
- 10.2 In reaching a decision on whether or not to grant a licence, the licensing authority, if relevant representations are made, may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 10.3 The grant of a licence does not imply the approval of other legislative requirements.

## **11. The Licensing Process**

- 11.1 The powers of the licensing authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority.
- 11.2 Many of the licensing procedures will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness officers will generally carry these out.
- 11.3 Applications where there are relevant representations will be dealt with by a committee of the licensing authority, as will any application for review of a licence. The licensing authority will normally publish on its website all new, variation and review applications for premises licences.
- 11.4 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 11.5 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 supply of alcohol taking place.
- 11.6 When determining applications the licensing authority will have regard to any guidance issued by the DCMS. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration will be balanced against the wider benefits to the community.
- 11.7 The licensing authority recognises that as part of implementing its cultural strategy, proper account will be taken of the need to encourage and promote

street theatre, circuses, performing arts, live music, dancing and theatre for the wider cultural benefit of the community. Conditions to be imposed on relevant licences will not discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.

- 11.8 The licensing authority acknowledges the advice received from DCMS that the views of vocal minorities should not be allowed to predominate over the general interest of the community.
- 11.9 The impact of this policy on regulated entertainment, particularly live music and dancing, will be monitored. Where there is an indication that such events are being deterred by licensing requirements the policy will be revisited with a view to investigating how the situation might be improved.
- 11.10 A review of a licence/certificate may be lodged with the licensing authority at any time by a Responsible Authority of Interested Party. Where a review application is made the licensing authority encourages all parties to work in partnership to achieve the promotion of the licensing objectives. The licensing authority would expect that Responsible Authorities give licence holders early warning, where possible, of any concerns identified at the premises.

The licensing committee will consist of between 10 and 15 elected members of the Council and will establish sub-committees consisting of 3 members of the committee.

The Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees or in appropriate cases, to delegated officers supporting the licensing authority.

Where there are no representations on an application for the grant of a premises licence or club premises certificate these matters will be dealt with by officers in order to speed matters through the system and in the interests of efficiency and cost.

Any such matter delegated in this way will then be listed for comment at the next committee meeting, but there is no opportunity to reverse the officer's decisions. Delegated officers can decide whether representations should be rejected in that they are frivolous or vexatious.

Such decisions cannot be appealed in the magistrate's courts but can be challenged by way of a judicial review.

Decisions made by the licensing committee can be appealed against to the magistrate's court within 21 days. Applicants, Responsible Authorities and Interested Parties all have the right of appeal. Recommendations of delegation of functions follow the DCMS Guidance issued under Section 182 of the Licensing Act.

## 12. Drugs

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

There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously.

These are the use of the licensed premises:

- For the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- For the use of licensed premises for the sale and distribution of illegal firearms;
- For the evasion of copyright in respect of pirated films and music, which does considerable damage to the industries affected;
- For the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- For prostitution or the sale of unlawful pornography;
- By organised groups of paedophiles to groom children;
- As the base for the organisation of criminal activity, particularly by gangs;
- For the organisation of racist activity or the promotion of racist attacks;
- For unlawful betting, gaming and gambling; and
- For the sale of smuggled tobacco and alcohol.

## 13. Door Supervisors

13.1 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must comply with the Private Security Industry Act 2001, the Violent Crime Reduction Act 2006 and any other successive legislation. The licensing authority may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, if relevant representations are made, the licensing authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

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

## 14. Control of Customers

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

## 15. Nuisance

- 15.1 To promote the licensing objectives applicants will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of the Interested Parties.
- 15.2 The licensing authority will normally expect premises selling hot food or hot drink that is taken off the premises for consumption, or the distribution of flyers or other promotional literature, to make adequate arrangements for the disposal of litter in the vicinity, which is discarded as a result.

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

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

## **16. Capacity**

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

## **17. Vessels**

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

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, following the receipt of relevant representations, the licensing authority will be concerned with the promotion of the licensing objectives on-board the vessel. The licensing authority will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations which must be met before the vessel is issued with a Passenger Certificate and Safety Management Certificate. It is expected that if the Maritime and Coastguard Agency is satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises will normally be accepted as meeting the public safety objectives. In respect of other public safety aspects, representations made to the licensing authority by the Maritime and Coastguard Agency will be given particular weight.

## **18. Designated Premises Supervisor (DPS)**

- 18.1 Where the retail sale of alcohol is a licensable activity the licensing authority will normally expect the DPS named on the Premises Licence to be given the day to day responsibility for running the premises by the premises licence holder and as such would normally expect the DPS to be present on the premises on a regular basis in order to ensure the licensing objectives are being complied with. The licensing authority may also consider attaching a condition to the Premises Licence that a Personal Licence holder should be present on the premises when the retail sale of alcohol is taking place if necessary to achieve the licensing objectives, but not as a matter of course.

The Police can at any stage after the appointment of a DPS seek a review of a premises licence on any grounds relating to the licensing objectives if anxieties arise about the performance of such a supervisor. The licensing authority would also strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

## **19. Temporary Event Notices (TENs)** (see glossary)

- 19.1 Some small-scale events, depending on the circumstances, may be held under the authority of a TEN. There are various restrictions in relation to the number of TENs for individuals and premises and event organisers are strongly advised to obtain advice well in advance of the event.
- 19.2 Police can object to a TEN only where they consider the event is likely to undermine the Crime Prevention objective.
- 19.3 The Act requires a TEN to be served upon the licensing authority and the police not less than 10 working days prior to the event. (Not including the day of service or the first day of the event.) In practice this is unlikely to be sufficient to allow any concerns to be resolved and organisers are advised to serve notice giving as much notice as possible. In the event that the police object to a notice and a hearing is held by the licensing authority, it is unlikely that the appeal will have time to be heard by the Magistrates Court unless a longer notification period has been given.
- 19.4. Organisers are strongly advised to ensure that adequate safety measures (including the recorded findings of a Fire Risk Assessment) are in place in relation to any Temporary Event. Any event held under a TEN may be subject to inspection by officers from Responsible Authorities.

## **GLOSSARY**

### **Club Premises Certificate**

Authorises the use of premises by a qualifying club for one or more licensable activity

### **DCMS**

Department of Culture, Media, and Sport

### **Designated Premises Supervisor**

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

### **Entertainment Facilities**

Facilities for enabling persons to take part in entertainment.

### **Hampton Principles** : from enforcement to compliance

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.

Hampton principles are:

- 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.

[http://www.hm-treasury.gov.uk/media/0/B/hampton\\_compliance281106.pdf](http://www.hm-treasury.gov.uk/media/0/B/hampton_compliance281106.pdf)

### **An Interested Party**

- A person living in the vicinity of the premises
- A body representing persons who live in that vicinity
- A person involved in a business in that vicinity
- A body representing persons involved in such businesses.
- An elected councillor of the licensing authority

### **Late Night Refreshment**

- The provision, between 11 pm and 5 am, of hot food or hot drink, for a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am

or

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

Hot Food or Hot Drink - food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:

(i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,

or

(ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

### **Licensable Activities and Qualifying Club Activities**

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

### **Operating Schedule**

Means a document containing a statement including the following matters:-

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public

- Information regarding the person who will be specified in the Premises Licence as The Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

### **Personal Licence**

Authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence

Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. A person holding a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime.

### **Premises Licence**

Authorises the premises to be used for one or more licensable activity

### **Regulated Entertainment -**

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

### **Relevant Representation**

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

### Frivolous or vexatious representations

It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious. The interested party may not consider the representation to be frivolous or vexatious, but the test is whether the licensing authority is of the opinion they are frivolous or vexatious. The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. A trivial complaint would not always be frivolous but would have to be pertinent in order to be relevant.

Vexatiousness may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. In borderline cases the benefit will be given to the interested party making the representation. An

interested party aggrieved by a rejection of his representations on these grounds may challenge the authority's decision by way of judicial review.

### Hearings

If the licensing authority decides a representation is relevant then a hearing will be required in relation to that representation unless the authority, the applicant and each person who has made representations agree that a hearing is unnecessary.

Where relevant representations are made the authority must take such steps as are mentioned in s.18 (4) of the Act, namely

- To grant a conditional licence,
- To exclude from the scope of the licence any activities applied for,
- To refuse to specify a person as the DPS, or
- To reject the application,

having regard to the representations and promotion of the licensing objectives.

### **Residential Area**

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

### **Responsible Authority -**

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

**Temporary Event** (also see section 19)

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

**Temporary Event Notice**

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

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

The notice must be given to the licensing authority and the Police no later than ten (10) working days before the day of which the event begins (in any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event involved)

**Terminal Hour**

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

While the concept of the temporary event notice is to give a light touch to charity organisations it can be used by licensees of premises to extend their hours of business on up to twelve occasions (aggregate fifteen days) during a year or to include other licensing activities or regulated entertainment.

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

DCMS - Department for Culture Media and Sport

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

Licensing Act 2003

Guidance under Section 182 of the Act

## **Responsible Authorities Contacts (non emergency calls only):-**

### **Devon & Cornwall Police**

The Licensing Office  
Devon & Cornwall Constabulary  
Ashburton Road  
Totnes Tel: 01803 860421  
TQ9 5JY Email: [licensing.totnes@devonandcornwall.pnn.police.uk](mailto:licensing.totnes@devonandcornwall.pnn.police.uk)

### **Devon and Somerset Fire and Rescue Service**

**(For Kingsbridge, Salcombe, Ivybridge and areas West of);**

The Fire Safety Officer  
Devon and Somerset Fire and Rescue Service  
Glenn Road  
Plympton  
Plymouth Tel: 01752 333600  
PL7 3XT Email: [plymouthfs@dsfire.gov.uk](mailto:plymouthfs@dsfire.gov.uk)

### **Devon and Somerset Fire and Rescue Service**

**(For Dartmouth, Totnes and areas East of);**

The Fire Safety Officer  
Devon and Somerset Fire and Rescue Service  
Newton Road  
Torquay Tel: 01803 653700  
TQ2 7AD Email: [torquayfs@dsfire.gov.uk](mailto:torquayfs@dsfire.gov.uk)

### **Health and Safety** (Other than schools which is the HSE)

Environmental Health Department  
South Hams District Council  
Follaton House  
Plymouth Road  
Totnes Tel: 01803 861234  
TQ9 5NE E-mail: [environmental.health@southhams.gov.uk](mailto:environmental.health@southhams.gov.uk)

### **Child Protection**

The Children and Young People Services  
Parkers Barn  
Parkers Way  
Totnes  
Devon Tel: 01392 386013  
TQ9 6ET Email: [CPChecks@devon.gov.uk](mailto:CPChecks@devon.gov.uk)

## **Environmental Health**

Environmental Health Department  
South Hams District Council  
Follaton House  
Plymouth Road

Totnes Tel: 01803 861234  
TQ9 5NE E-mail: [environmental.health@southhams.gov.uk](mailto:environmental.health@southhams.gov.uk)

## **Planning & Building Control**

Planning Department  
South Hams District Council  
Follaton House  
Plymouth Road

Totnes Tel: 01803 861234  
TQ9 5NE E-mail: [development.control@southhams.gov.uk](mailto:development.control@southhams.gov.uk)

## **Maritime & Coastguard Agency (Boats only)**

Maritime & Coastguard Agency  
Plymouth Marine Office  
Western Region  
New Fish Market  
Baylys Wharf  
Fish Quay  
Plymouth  
PL4 0LH

Tel: 01752 266211  
Email: [richard.bone@mcga.gov.uk](mailto:richard.bone@mcga.gov.uk)

## **South Hams District Council Licensing Office**

The Licensing Manager  
South Hams District Council  
Follaton House  
Plymouth Road

Totnes Tel: 01803 861336  
TQ9 5NE E-mail: [licensing@southhams.gov.uk](mailto:licensing@southhams.gov.uk)

## **Weights and Measures**

Licensing Act 2003  
Devon County Council  
Trading Standards Service  
County Hall  
Topsham Road  
EXETER

Devon Tel: 01392 381381  
EX2 4QH Email: [tsadvice@devon.gov.uk](mailto:tsadvice@devon.gov.uk)