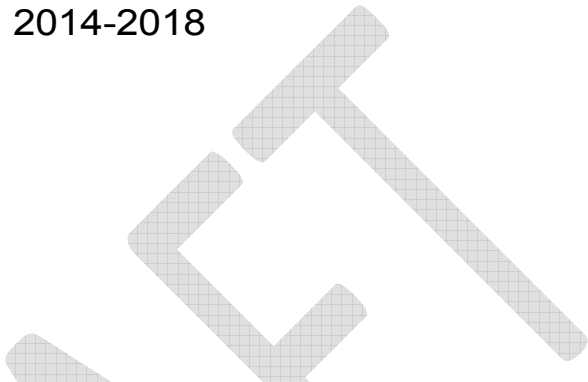


# Statement of Licensing Policy

## The Licensing Act 2003

2014-2018



Picture of Pub Trade? To be added

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## 1.0 Introduction

This statement has been prepared having regard to the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Licensing Act 2003 ('the Act') and as required of the Licensing Authority under Section 4 of the Act.

This statement of licensing policy will be kept under review throughout its period of validity and amended as considered necessary. Any amendments will be subject to consultation.

This Statement takes effect from ????????

The Licensing regime implemented by the Act and operated by Wiltshire Council as Licensing Authority is about the appropriate control of licensed premises, qualifying clubs and temporary events. It also covers the people who manage these premises or hold personal licences within the terms of the Act. Applications covered by the Act and relevant to this Statement include:

- Personal Licences
- Premises Licences – including provisional statements
- Variations
- Transfers
- Interim Authorities
- Temporary Events
- Club Premises Certificates
- Designated Premises Supervisors
- Reviews

### 1.1 Purpose and Scope

This Statement sets out the policy of the Licensing Authority with respect to carrying out its licensing functions under the Licensing Act. These include policy formulation, administration, monitoring, and enforcement activities. The latter will include working with and sharing permitted data with other regulatory and enforcement agencies

The following will also be relevant to the way in which the Licensing Authority exercises its functions under the Act:-

- Each application will be determined on its own merits having regard to the licensing objectives; relevant guidance including that issued under Section 182 of the Licensing Act 2003, and local criteria.
- The Solicitor to the Council will ensure that the rules of 'natural justice' will be applied at all times during hearings or reviews.

- The statutory right of any responsible authority or other person to make appropriate representations to an application or to seek a review in respect of a granted authorisation where appropriate is accepted.
- The impact of the activities taking, or proposed to take, place at a licensed premises on businesses or individuals who are likely to be affected by it.
- The Licensing Authority, on behalf of the Council, may notify parties they consider appropriate such as Councillors, town and parish councils of relevant applications.
- There is no presumption of grant of any licence under the Licensing Act.

## 1.2 Key Aims

The key aims of this Statement of licensing policy are for the Council as the Licensing Authority to:-

- Promote and give precedence to the licensing objectives.
- Recognise the need to assist in building a fair, vibrant, and prosperous society in Wiltshire that properly balances the rights of residential communities, the business sector and other relevant parties.
- Secure the safety and amenity of residential communities whilst facilitating a sustainable, diverse, entertainment and hospitality sector in Wiltshire.
- Integrate its aims and objectives with other initiatives that will:-
  - Create an attractive and vibrant area, which has a positive effect on employment.
  - Reduce local crime, disorder and anti-social behaviour.
  - Reduce alcohol harm.
  - Reduce the supply and use of illegal drugs in licensed premises.
  - Encourage the self- sufficiency of local communities.
  - Reduce the burden of unnecessary regulation on businesses and promote self-help.
  - Reduce the health impacts of alcohol misuse and dependence and reduce the demand of alcohol related A&E services.
  - Continue its commitment to working in partnership with other agencies and organisations through both formal and informal arrangements towards the promotion and achievement of the objectives set out in this policy.
  - Endeavour to reflect the diversity of Wiltshire through its blend of urban and rural settlements.
  - Give direction to applicants, so that they can make informed decisions in respect of their own ventures.

### **1.3 Consultation**

In reviewing this statement the licensing authority consulted widely with all necessary bodies and relevant stakeholders. A list of those consulted is available from the licensing authority on request. The consultation process was conducted between May 2014 and July 2014 by way of a direct letter to those identified and also via publication on the council's website. Responses received were listed on a matrix document and each point made was given due consideration.

### **1.4 Licensing Function**

The Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the Council's area. It makes for a vibrant and attractive area, which subsequently has a positive effect on employment. The Licensing Authority also recognises that owners and occupiers of commercial premises have a legitimate expectation of an environment that makes and keeps their businesses sustainable.

The Licensing Authority welcomes the opportunity to encourage the development of the cultural, artistic, leisure and hospitality sectors in Wiltshire. It will assist all applicants in endeavouring to meet their aspirations within the law.

The Licensing Authority also has regard to wider considerations affecting the residential population and the amenity of any area. These include dropping litter and street fouling, noise and street crime. It is, however, recognised that the Licence holder has no direct control over individuals once they are away from the premises.

The Licensing Authority recognises that the diverse range of licensed premises throughout Wiltshire makes a major contribution to attracting both initial and repeat visitors to both the historic localities, and diverse venues.

The Licensing Authority acknowledges that circuses can fall on the edge of the licensing regime depending on the nature of their show. Normally it will expect such events to obtain an authorisation under the Licensing Act (subject to legislative change, Section 182 guidance etc) where the land concerned is not already licensed under the 2003 Act.

### **1.5 Licensing Objectives**

The Council will carry out its statutory duties under the Licensing Act 2003 as the Licensing Authority and have due regard to the licensing objectives.

It is important to note that all objectives have equal importance in the implementation of this policy.

The Licensing Objectives are:

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

The Licensing Authority expects 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 nature of the location and the impact on the local community.

Where there are no relevant representations, or they have been withdrawn at or before a hearing, the application will be granted as requested subject only to conditions which reflect the Operating Schedule and any mandatory conditions. Most premises do and will operate without any significant concerns to the licensing objectives. However, where there is a relevant representation, the application will usually proceed to a hearing, following which the Licensing Authority may take such steps as are necessary to promote the licensing objectives, as provided for in the Act.

The following sections set out the Licensing Authority's Policy relating to the four licensing objectives. It is emphasised that these objectives are the only matters which can be taken into account by the Licensing Committee and they will pay particular attention to them at a hearing, when determining applications and applying any conditions. A hearing must be called when relevant and valid representations are made by any person or Responsible Authority, based upon the four licensing objectives.

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

The Council acting as the Licensing Authority has a duty to act singularly or with its partners to reduce crime and disorder throughout Wiltshire, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. The Council as a member of the Wiltshire Community Safety Partnership will work with relevant partners to utilise legislation as required to prevent crime and disorder issues.

Applicants are required by law to set out in their operating schedule the steps they propose to promote the prevention of crime and disorder. Responsible applicants will ensure proper regard in their operating schedule to the location, character and condition of the premises, the nature and extent of the proposed use and the persons likely to be attracted to the premises.

The Council expects the premises licence, or club certificate, holder to take steps to control excessive consumption and drunkenness on their premises. This will reduce the risk of anti-social behaviour occurring both on the premises and elsewhere after customers have departed. Licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities. The Licensing Authority expects all applicants to consider a number of key conditions, where relevant to the type of licensable activity being proposed:

### **2.1 Toughened/ Safety Glasses**

Standard annealed glass bottles and drinking containers used in the leisure and hospitality sectors to supply alcoholic and non-alcoholic drinks may be used as weapons inflicting serious harm during incidents of disorder. Police evidence indicates that incidents are particularly likely in or within the immediate vicinity of a pub, club or nightclub. It is suggested that where the application relates to the sale of alcohol ON the premises, the applicant considers measures to prevent glass bottles or glasses being taken off of the premises.

In particular this is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond 2300hrs. Possible exceptions would be facilities for hotel residents and their guests or a restaurant where the bar is primarily provided for restaurant customers.

Outside licensed premises, glass containers, as well as being potential weapons, add to street debris, pose risks to street cleaners and pedestrians and generally undermine the objective to minimise public nuisance. Therefore the policy also applies to any premises where outside areas are provided for consumption of alcohol, particularly where the outside area is in or adjacent to a public place.

The Licensing Authority believes that the use of safer alternatives to annealed glass i.e. plastic will help promote public safety and the prevention of crime and disorder in licensed venues.



## **2.2 Pubwatch**

The Licensing Authority recognises the value of 'Pubwatch' schemes and intends where appropriate, to play a supportive role and attend meetings as appropriate. Where such a scheme is active in the locality of a premises, the applicant is strongly encouraged to become an active member of Pubwatch. As well as traditional pubs and entertainment venues, this includes premises that are licensed solely for the sale of alcohol for consumption off the premises.

The Pubwatch provides a forum for sharing information, disseminating best practice and meeting with representatives of the Licensing Authority, the police and other responsible authorities. The Licensing Authority encourages all licensees to actively participate in their local pubwatch scheme and is keen to support the development of more schemes where there is a demand.

## **2.3 Information Sharing & Reporting Incidents**

As well as sharing information through formalised pubwatch schemes licensees are encouraged to share and report incidents to relevant agencies as and when appropriate, rather than waiting for a next meeting. Any issues of crime and disorder should be reported as soon as possible to Wiltshire Police. If persons or property are in danger then this should be done through calling '999', alternatively the '101' number should be used. Incidents that occur on licensed premises should be recorded and made available to Wiltshire Police and other agencies.

Wiltshire Police and Wiltshire Council also work in partnership to target those individuals who cause crime and disorder. Drink Banning Orders (sec 1-14 Violent Crime Act 2006), Exclusion Orders (sec 1 Licensed Premises Act 1980) and Anti Social Behaviour Orders (sec 1 Crime and Disorder Act 1998) and any replacement powers will be utilised to assist in the prevention of crime and disorder. Information about relevant orders against persons will be shared with premises. License holders are also expected to assist in preventing crime and disorder by notifying Wiltshire Police of any persons who breach orders relevant to their premises.

## **2.4 Door Supervisors/ Stewards**

Any person engaged at licensed premises to carry out security activities including the prevention of access to or the physical ejection of a person from the same premises on behalf of the licensee must hold and display a valid current licence issued by the Security Industry Authority (SIA) or any successor system.

The Licensing Authority will consider representations that indicate that specific premises require door supervision for the purpose of meeting the crime and disorder or public safety licensing objectives. In such cases, the Licensing Authority may impose a condition that an agreed number or ratio of licensed door supervisors must be employed at the premises either at all times, or at such times as certain licensable activities are taking place.

In certain circumstances it may be appropriate to use trained stewards to provide a satisfactory level of customer care and general safety awareness. These individuals must not carry out security activities, and would not be required to hold a SIA licence. If they were employed to undertake duties involving children then the applicant should consider whether a relevant criminal record office – basic disclosure check is appropriate.

Front line staff should receive relevant training in conflict management and basic first aid training.

The applicant may find it beneficial in developing the operating schedule for a premises licence or certificate to have undertaken a security risk assessment in order to determine the resources necessary to meet the licensing objectives.

## **2.5 Dispersal Policy**

Every venue whether a pub, club, or bar will prepare and implement a dispersal policy working in partnership with other venues within the vicinity through mechanisms such as Pubwatch. Applicants should consider how the venue will minimise the potential for disorder and disturbance as customers leave the premises. This should be prepared in consultation with the Licensing Authority and Police and reviewed regularly and staff should be trained in how to implement this policy.

## **2.6 Drugs in Premises**

The Licensing Authority recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises but it is recognised that conditions may need to be attached to the premises licences for certain venues if representations are received. The aim will be to endeavour to reduce the availability, sale, and consumption of illegal drugs and to create a safer environment for those who may have taken them. Any conditions will take into account the relevant guidance and advice from appropriate bodies.

The Licensing Authority expects licensees to permit the access and use of drug dogs within the public and staff areas of the premises upon request of the Licensing Authority and/or police involved in such an initiative.

The Licensing Authority expects licensees to permit access for drugs analysis equipment and staff so that random drug tests can be carried out on the skin of persons wishing to have access to the licensed premises, in addition to the staff and contractors employed at the premises.

## **3.0 Promotion of Public Safety**

The public safety objective is concerned with the physical safety of the people performing in and staff and customers using the relevant premises. Applicants should carefully consider how they intend to promote the Public Safety objective in their Operating Schedule.

Where Applicants consider that the Public Safety objective could be compromised by their intended activities, they are encouraged to contact the Wiltshire Council's Health and Safety Section and/or Wiltshire Fire & Rescue Service as the most relevant Responsible Authorities for guidance. Other organisations such as the Wiltshire Public Events and Licensing Group will be able to offer advice. Contact details for these Authorities/Groups are available from the Licensing Authority.

Wiltshire Council promotes the use of community initiatives such as Purple Flag which has been awarded to Salisbury. Wiltshire Council aspires to support similar schemes across the county.

### **3.1 CCTV**

CCTV has a role to play in stopping and deterring crime and anti-social behaviour in certain hotspots and is also used as an evidence and detection tool.

However, the use of surveillance cameras should only be used if it is necessary and proportionate, in addition:

- When considering the use of surveillance camera systems, either as part of the conditions attached to a licence or certificate, or within an operating schedule the Licensing Authority or applicant must in particular have regard to the Information Commissioner's Office's Code of Practice on CCTV. Any proposed blanket requirement to attach surveillance camera conditions to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review.
- Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in any particular case. For example, it is unlikely that a surveillance camera condition would be justified for a trouble-free community pub. Where a licence or certificate is granted subject to surveillance camera system conditions, it is the responsibility of the licensee to comply with any data protection considerations that may arise from the use of such a system
- CCTV systems are deployed for a range of purposes, and are generally welcomed as a reassuring presence and for keeping the public safe. Technological developments have increased the capability of surveillance camera systems. This has in turn increased the capability of system

operators, the police and the criminal justice system to protect people and property, investigate incidents and bring crimes to justice. It has also increased the risk of interference with a citizen's right to privacy.

- The public must have confidence that surveillance is appropriate and proportionate, and that those who operate the camera systems, or use the images and information they capture, demonstrate integrity in doing and can be held to account.
- CCTV recordings should be kept for a minimum of 31 days and shared with the Licensing Authority and Wiltshire Police upon request.

### **3.2 Alcohol Consumption**

The Council expects all premises licence holders to take steps to control excessive consumption and drunkenness on relevant alcohol licensed premises. This will reduce the risk of anti-social behaviour occurring both on and away from the premises after customers have departed. Premises licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities.

### **3.3 Alcohol Harm Reduction**

Communities, agencies and businesses are ultimately best placed to identify and deal with alcohol-related problems in their area. It is important to maximise the benefits of partnership working, focusing and co-ordinating the efforts of local agencies, industry and the voluntary sector in tackling alcohol-related problems. Budgets and expertise can be pooled, providing the right services at the right time, making town centres safer and in doing so encourage more people to enjoy a night out, thus promoting economic growth.

Information is a powerful tool in tackling alcohol-related problems. It is vital to strengthen data sharing within local partnerships, in particular between crime and health agencies and licensing authorities.

The Licensing Authority will continue to work alongside their partners on a countywide and local level. Groups such as licensing tasking will continue to formulate the basis of partnership work and will have clear aims and objectives to ensure they are fit for purpose. This group will sit within the governance of Wiltshire Community Safety Partnership and will feed into local initiatives such as Pubwatch, Purple Flag, Best Bar None and Community Alcohol Partnerships as and when required.

### **3.4 Public Health**

The inclusion of the health service as a responsible authority under the Licensing Act 2003, which occurred in 2012, enables health bodies to have a say in alcohol

licensing. The Licensing and Public Health teams work together within the council to ensure that the health impacts of alcohol licensing are considered.

As there is not a specific licensing objective related directly to health within the current legislation, health bodies, when making a representation are most likely to relate such representations to the objectives on public safety and protecting children from harm. This is likely to include the prevention of accidents, injuries and other immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning. Anonymised data can be collected about incidents relating to specific premises or areas when representations are made.

Health bodies hold valuable information which may not be recorded by other agencies, including analysis of data on attendance at emergency departments and the use of ambulance services following alcohol related incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises.

The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies.

### **3.5 Occupancy Limits**

The Licensing Authority may set an occupant capacity following representations received in order to meet the licensing objectives.

### **3.6 Health and Safety**

If more than five people are employed, by law the applicant must have a health and safety policy statement which must be brought to their attention. Employers must also record the results of risk assessments and ensure a robust tailor made health and safety action plan, is in place for both staff and customers. Applicants should have this available at the request of Licensing Authority or any other responsible authority.

## **4.0 Prevention of Public Nuisance**

Public nuisance is a broad concept, which concerns how the activity of one person (or business) affects the rights of others, for example, how noise from playing music interferes with another person's right to sleep.

The Act requires and the Licensing Authority expects applicants to demonstrate within their operating schedule how they intend to prevent public nuisance arising. This will be of particular importance where there are residential properties in the vicinity of the licensed premises.

When appropriate on application or review the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for public nuisance, anti-social behaviour and other crime which may impact on the promotion of the licensing objectives.

When an operating schedule does not sufficiently address the prevention of public nuisance the Licensing Authority will consider all reasonable conditions recommended by responsible authorities to prevent public nuisance. In some locations it may be necessary to limit opening hours or the times of other licensable activities.

Where considerations apply to late night refreshment premises, they shall only be taken to apply to their operation between the hours of 11 p.m. and 5 a.m. when a premises licence would be required.

Applicants should carefully consider how they intend to promote the Prevention of Public Nuisance objective in their Operating Schedule. This can include several considerations:

### **4.1 Odour**

The applicant should consider any odour that maybe emitted from the premises. This can include the generation of odour from food preparation, waste, bottle storage and/ or from smoking areas. Steps should be taken or proposed to be taken by the applicant to prevent odour from the premises causing nuisance.

Most commercial kitchens will require a mechanical extraction system, and the type and size will depend on the size of the cooking facility, type of food prepared and type of cooking appliances used. The applicant may need to get advice from specialist air handling engineers about controlling odour from kitchen air extraction systems.

Controlling odour from waste and bottle storage areas is entirely down to good management practice which involves using sealed waste bins big enough to hold all waste, which can be thoroughly cleaned and are regularly emptied.

When designating a smoking area outside it is important to consider who will be affected by the smoke, the possible number of persons using the area and ensuring a facility to safely dispose of lit cigarettes.

## **4.2 Lighting**

Outdoor artificial lighting is used for a number of reasons, including work, recreation, security, safety, advertising, display, and to create a pleasant atmosphere where people gather socially. As many of the premises operating under the Licensing Act will use outdoor lighting late at night, it is important to ensure that it does not become a nuisance to others. Light 'spilling over' onto other property can cause annoyance, distraction and discomfort and may cause driving problems by glaring into drivers' eyes or competing with signs and other traffic signals.

## **4.3 Waste/ Litter**

Licensed premises of all types can potentially cause public nuisance from litter and waste. There are a number of laws relating to proper waste collection and disposal, not least of which is the "duty of care" to ensure any waste is properly contained and controlled while in the operator's possession, and that it is collected by a reputable waste carrier. The Licensing Act does not duplicate these laws, but licence holders will need to apply good waste management practice in order to prevent public nuisance.

Uncontrolled litter, waste and street fouling is unsightly and can lead to a negative image of the area. It can cause offensive odour, may attract rats and insects and therefore be a public health risk, it may cause people to slip, trip and injure themselves, and it may harm the reputation of the licence holder's business.

Typical examples of litter, waste and street fouling that may cause problems include take-away packaging and food dropped by customers, wind-blown waste and litter from refuse storage areas, discarded and broken bottles, glasses and cans, promotional leaflets (flyers) and posters, and people who have consumed too much alcohol and urinate and vomit in the street.

## **4.4 Noise**

Noise can come either directly or indirectly from licensed premises. Direct noise, such as that from entertainment activity, will be under the premises' direct control. Indirect noise, such as that from vehicles and customers coming to and from the premises may not be under direct control, but the premises can strongly influence it. Both direct and indirect noise will be of greater importance between 2300 hours and 0700 hours. Specific types of noise each need different consideration when reducing their impact on public nuisance.

#### **4.5 Entertainment**

Greater control measures are needed for premises that operate late at night (after 11pm) and/or have regular entertainment. Steps should be taken or proposed to be taken to prevent noise and vibration from entertainment causing nuisance. This may include noise from music, human voices and other forms of entertainment whether amplified or not. Consideration should also be given to ensure noise is not audible at sensitive locations such as dwellings, hospitals, hotels and other business premises. Any noise should also not cause unreasonable disturbance to the wider public, such as passers-by and people using public facilities.

#### **4.6 Disturbance from Customers**

Steps should be taken or proposed to be taken to prevent noise and disturbance from customers causing nuisance. This may include noise and disturbance from customers on the premises and customers in outdoor areas such as terraces, beer gardens and smoking areas. It will also include noise, disturbance and obstruction from customers in the vicinity of the premises including customers congregating outside premises to smoke or drink, customers arriving, leaving or queuing outside a premises.

Particular consideration now has to be given to the potential for public nuisance arising from outside areas following the implementation of smoke free laws in July 2007. It must be noted that there is no legal requirement for licensed premises to provide an outdoor smoking area. However, Wiltshire Council encourages premises where practical to do so to minimise congestion on pavements.

Noise and disturbance from people outside can cause public nuisance even when those people are not behaving badly. This will be of more significance in areas with residential accommodation and will usually, but not exclusively, be of greater importance between 2300 hours and 0700 hours. However it must be noted that noise and disturbance from customers out of doors can cause public nuisance outside of these times.

#### **4.7 Plant and Equipment**

Steps should be taken or proposed to be taken to prevent noise and vibration from plant or equipment causing nuisance. This includes noise and vibration from ventilation, air conditioning and refrigeration equipment.

#### **4.8 Servicing**

Steps should be taken or proposed to be taken to prevent noise from servicing of the premises causing nuisance. This may include noise from deliveries, collections and the onsite disposal of bottles and other waste or recyclable materials.



#### **4.9 Fly Posting, Flyers and Graffiti**

Steps should be taken to prevent fly posting and the distribution of flyers advertising the premises or events at the premises. The applicant should endeavour to cut down the use of promotional leaflets and only hand flyers directly to the public – do not put on vehicle windscreens. Ensure a litter bin is near to the distribution point and clear discarded flyers afterwards. The applicant should also remove any graffiti and fly posting from their surfaces as soon as it appears.

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## 5.0 Protection of Children from Harm

For the purposes of this policy the Licensing Authority considers anyone under 18 years of age to be a child or young person unless otherwise agreed.

The policy aims to work alongside the principles set out in the Wiltshire Safeguarding Children Board and Wiltshire Children and Young People's Trust revised Multi-Agency Thresholds for Safeguarding Children.

The Licensing Authority expects that, whether or not alcohol is supplied or proposed to be supplied on or in the vicinity of the premises, operating schedules will identify:

- the extent to which it is proposed that children be admitted to the premises;
- whether it is proposed that unaccompanied children will be admitted;
- if they are, the type of regulated entertainment provided whilst children are present;
- The specific steps undertaken to ensure the safety of children and to further ensure that no products or services are sold to children that are not appropriate for their use or consumption.
- That an unaccompanied young person (i.e. somebody under the age of sixteen who is not accompanied by a person over the age of eighteen) must not be allowed into any premises which are "exclusively or primarily used for the supply of alcohol for consumption on the premises".
- That staff are aware of their responsibility to ensure that an adult should not become over intoxicated if accompanied by a young person or child as to inhibit their ability to safeguard that young person.

Whether or not premises with a mixed use are "exclusively or primarily used" is a matter of judgment and will depend upon the particular circumstances of the case. The guidance makes it clear that this does not mean that where the supply of alcohol is not the exclusive or primary use then young people should automatically be given access.

Where it is appropriate and permissible within the law the Licensing Committee should impose conditions that restrict young people from entering all or part of any premises licensed to supply alcohol:

- at certain times of the day and/or;
- when certain licensable activities are taking place and/or;
- where there is an age limitation (over 18);
- unless accompanied by an adult.
- where there is a history of crime and disorder.
- where the premises are in a high risk area e.g. close to school; in an area with a history of underage sales; in an area with anti social and criminal behaviour linked to persons under 18

Applicants who propose to admit children, particularly where they would not require them to be accompanied by a responsible adult, should be especially careful in ensuring they meet the requirement that their schedule fully and clearly sets out the nature of the activities for which permission is sought. Further, the schedule should specify in sufficient detail the measures and management controls proposed to protect children from harm.

The Licensing Authority expects that staff are trained and aware of their responsibility for ensuring that customers are old enough to purchase alcohol. This requirement is particularly relevant for bar staff working at premises where door supervisors control entry to a premise. Particular care and appropriate measures should be in place for venues that, due to the nature of the events, attract both over and under 18 year old patrons.

### **5.1 Age Verification Underage Sales on / off Premises**

Licensees will be expected (and in the case of alcohol supply are required) to have adequate age verification systems in place. This could be through the use of a Challenge scheme i.e. “challenging anyone who looks under 25 to prove their age by use of an approved means of identification”; such a scheme to be advertised and enforced on the premises.

The Licensing Authority supports and may condition an appropriate age policy in licensed premises. Licensees will need to demonstrate that their staff receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers, and checking identification). The training provided should be properly documented so that there is an adequate audit trail and records are available for inspection.

The following are examples of identification used

- Passport
- Photo-card driving licence
- Official identity card issued by HM forces

Details of training provided to members of staff to prevent underage sales should be recorded in a log. Additionally, when a retailer does refuse the sale of alcohol this should be recorded in a ‘refused sales log’. These documents should be kept available for inspection by a constable or authorised officer of the Licensing Authority.

### **5.3 Children and Cinemas/Theatres**

The licensing authority will expect licensees or clubs to include in their operating schedules their arrangements for restricting children from viewing age

restricted films according to the recommendations of the British Board of Film Classification (BBFC) or the Licensing Authority itself. In the event that the Licensing Authority is asked to stipulate an age category for a film, video etc that has not been dealt with by the BBFC, the licensing sub-committee or its delegated officers may view the film etc and use the BBFC published guidelines on categorisation as a 'bench mark' in reaching their decision, which will then become a condition.

In considering any application, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.

Where performances are for unaccompanied children in theatres and cinemas and relevant representations are received in response to an application/review, the Licensing Authority may impose conditions requiring an adequate ratio of adult attendants (over 18 years and relevant criminal record check).

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## **6.0 Licensing Process**

A Licensing Committee, Sub-Committee, or Licensing Officers acting under delegated authority, may carry out the powers of the Licensing Authority under the Act, in accordance with the Council's scheme of delegation.

Many of the licensing procedures are largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness Licensing Officers generally carry these out.

The Licensing Authority ensures that all officers and members who deal with applications have received adequate training for their role under the Licensing Act 2003.

A sub-committee of the Licensing Authority deals with applications and the review of a licence, where there are relevant representations.

When determining applications the Licensing Authority has regard to any guidance issued by the relevant Government department. In particular, account is taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. 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 e.g. single or multiple day events at outdoor event arenas in Wiltshire. Any conditions imposed on licences do not seek to discourage such entertainment, but are aimed solely at promoting the licensing objectives.

### **6.1 Application for Premises Licences & Club Premise Certificates**

The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the location and type of premises, the licensable activities to be provided, and the operational procedures.

Applicants should make themselves aware of the Council's statement of licensing policy, in particular the issues that will need to be addressed in formulating the operating schedule.

Applicants will be encouraged to make themselves aware of any relevant planning policies, tourism, cultural or local crime prevention, alcohol reduction strategies; and to have taken them into account, where appropriate, when formulating their operating schedule.

When determining applications the Licensing Authority will have regard to the Section 182 and other relevant guidance issued.

Prospective holders of new premises licences and those seeking variations to existing premises licences are advised to consult with the Council's licensing team and the various responsible authorities early in the planning stages in order to reduce the risk of confusion and disputes arising.

The Licensing Authority will endeavour to work in full co-operation with licensees and applicants to minimise the number of disputes that may otherwise arise in this area.

## **6.2 Licence Conditions**

Licensing relates to the control of licensed premises, and other events within the terms of the Act. As part of this control, conditions may be attached to licences, and the various other permissions, which focus on matters falling within the control of individual licence holders.

Any 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 primarily focuses on the direct impact of any activities taking place on those living, working, or otherwise engaged, in the area concerned.

The licensing function is not a mechanism for the control of anti-social behaviour by individuals once they are beyond the direct control of the licence holder of any premises concerned. Conditions attached to licences must only seek to impact on the behaviour of customers on, or in the immediate vicinity of the premises as they seek to enter or leave.

The Licensing Authority may impose conditions following a hearing. These conditions must not be disproportionate or over burdensome. The Licensing Authority does not implement any standard conditions. Conditions may be attached as appropriate given the circumstances of each individual case. Conditions will not be attached where adequate legislative control exists.

## **6.3 Licensing Hours**

The Licensing Authority deals with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with hours extending beyond 23.00 hours, higher standards of control generally need to be included in Operating Schedules in order to promote the licensing objectives, especially for premises, which are situated in, or near, residential areas or in areas where anti-social behaviour takes place. There is no presumption within the legislation for longer opening hours.

In considering all licence applications, the Licensing Authority takes into account the adequacy of the measures proposed to deal with the potential for nuisance and/or public disorder and has regard to all the circumstances of the case.

Where no representations are received an application is approved as applied for. Where a hearing or a review takes place 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. In addition the Licensing Authority may in the case of an application refuse to grant a licence and at a review, revoke an existing licence.

The Licensing Authority recognises that having fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets

when large numbers of people leave licensed premises at the same time. The Licensing Authority aims, through the promotion of the licensing objectives, to reduce the potential for concentrations of people and thus achieve a slower dispersal of people from licensed premises through longer opening times when appropriate.

The Licensing Authority does not seek to adopt fixed terminal hours in designated areas (known as “zoning”), as this can lead to the significant movement of people across boundaries in search of premises opening later.

Shops, stores and supermarkets are generally permitted to sell alcohol for consumption off the premises during their normal trading hours, unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

#### **6.4 Permitted Temporary Activities (TENS)**

The Licensing Act 2003 provides for certain occasions when small-scale events (where no more than 499 people at a time attend and last for up to 168 hours) do not need a licence if advance notice is given and no relevant objections are received.

The Licensing Authority recommends that at least one month’s notice be given to hold these events to allow it to help organisers plan their events safely. Any significantly longer period than this may mean that organisers do not have all the details available at the time of submitting the notice. Any lesser time means that planning may be rushed and haphazard. The minimum legal timescale may be less than this period.

Event organisers are encouraged to make contact for advice at the earliest opportunity when planning their community events.

The Police or Environmental Health may issue an Objection Notice where they consider the prevention of Crime and Disorder or Public Nuisance objectives may be undermined. In such circumstances, the Licensing Sub-Committee will consider the objection by way of a hearing. If the objection notice relates to a “late TENS” a Counter Notice will be issued making the TENS notice invalid.

#### **6.5 Large Scale Events**

These are events that are temporary but more than 499 people are expected to attend. Much larger crowds may be attracted to large-scale events and the risk to public safety and to crime and disorder, as well as public nuisance, may be considerable. The Licensing Authority and all other statutory consultees, should be given at the earliest opportunity, notice of such major events to discuss Operating Schedules with the organiser, prior to a formal application being submitted.

The Licensing Authority recommends they are given at least 6 months’ notice to allow for a sufficient lead in time. Failure to consult in sufficient time may result in an objection on the grounds that insufficient time has been allowed to properly assess and consult to ensure that, in particular, public safety is not undermined.

Wiltshire Council has an established Events Safety Advisory Group (ESAG). This includes relevant council officers, representatives of the emergency services and the voluntary first aid sector. ESAG's aim is to advise on safety at public events held throughout Wiltshire, regardless of whether or not a premises licence or a temporary event notice is required. There is good liaison between the ESAG and the Council's licensing team. Event organisers are encouraged to make contact for advice at the earliest opportunity when planning their community events.

## **6.6 Delegation of Decision Making**

One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure efficient and cost effective service delivery. The Licensing Authority is committed to this principle and its scheme of delegation is outlined in Table 1 that is based on the guidance issued under Section 182 of the Act.

The Act itself requires that applications be granted unless a representation or objection is raised. Where a function is delegated to an officer they will be responsible for liaising with the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to proportionate and necessary conditions. Where objections/representations are made, the officer will liaise with the applicant, those making the representation and the responsible authorities to see if a settlement is possible to overcome the representations without the need for the matter to go before the licensing subcommittee. Only where issues are raised which cannot be agreed will the application be referred through to the licensing sub-committee for determination.

Whilst contested licensing applications are quasi-judicial in nature, the licensing sub-committee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure will be designed to ensure that all parties are able to express their views openly and fairly. The procedure is inquisitorial rather than adversarial and, whilst applicants, individuals and businesses who may be affected, and responsible authorities are entitled to bring legal representation with them if they wish, this is not a requirement.

Whilst the licensing sub-committee usually meets in public, it does have power to hear certain applications in private and to receive legal advice similarly. A decision is made publicly when the matter has been determined.

The licensing sub-committee will determine each case on its individual merits whilst taking into consideration the terms of this policy document. Where the licensing sub-committee determines that it is appropriate to attach conditions to a licence or certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.



The Licensing Authority will expect the applicant to have had due regard to the contents of this policy and the attached appendices that provide guidance only.

A decision of the Licensing Authority can be the subject of an appeal at the Magistrates' Court. As a consequence the Licensing Authority will record full reasons for any decision(s) made. The refusal of an application does not prevent a further application being made, but the Licensing Authority would expect the applicant to carefully consider the issues of concern before doing so.

## **6.7 Application for Personal Licenses**

The Police will have the right to object to a person applying for a personal licence if that person has a relevant unspent conviction (at the time of application) or if they obtain a relevant conviction during the application period of their licence.

An individual may seek a personal licence valid for 10 years whether or not they have current employment or business interests associated with the use of the licence. Applications cannot be made in the name of a corporate body.

- The Licensing Authority must grant a personal licence if the applicant:
- Is aged 18 years or over
- Is in possession of a relevant licensing qualification or is a person of a prescribed description
- Has not forfeited a personal licence in the previous five years, beginning with the day the application was made
- Has not been convicted of any relevant offence under Schedule 4 of the Act, or a foreign offence
- Has paid the appropriate fee to the Licensing Authority

Applicants with unspent criminal convictions for the relevant offences set out in the Licensing Act 2003 are encouraged to first discuss their intended application with the police and Licensing Authority before making an application.

In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a relevant criminal record office - basic disclosure certificate, with the application form together with a signed disclosure form by them.

The Licensing Authority and Police may arrange a joint interview with a prospective personal licence holder(s) to discuss the circumstances surrounding their conviction(s). Ultimately, the Police may be minded to object to the grant of the personal licence. In these circumstances, the applicant is entitled to a hearing before the licensing sub-committee. The application will be refused, based on the police's objection, if the Licensing Authority considers it appropriate for the crime prevention objective to do so.

Wiltshire Licensing Authority will be the 'relevant Licensing Authority' for all

10 year personal licences issued for the duration of that period, regardless of the subsequent place of residence of the holder. It will maintain all notified changes of address on its database.

## **6.8 Delegation to Premises Supervisors**

The designated premises supervisor need not be physically on the premises at all times when there is a supply or sale of alcohol but the Licensing Authority expects that there will be an appropriate authorisation system in place in line with the Section 182 (or other) guidance regarding the sale of alcohol at the licensed premises.

Where a designated premises supervisor is to be newly specified, the premises licence holder will apply to the Licensing Authority (including an application for immediate effect) and show that the individual concerned consents to taking on this responsible role, and notify the police of the application.

The police are able to object to the designation of a new premises supervisor where in exceptional circumstances, they believe the appointment would undermine the crime prevention objective. Similarly, the police are able to object where a designated premises supervisor is first appointed or transfers to a particular premises, and this combination gives rise to exceptional concerns; such as where a personal licence holder who has been allowed by the courts to retain their licence, despite convictions for selling alcohol to minors transfers to premises which has a degree of notoriety for underage drinking.

The Act provides that the applicant may apply for the individual to take up the post of designated premises supervisor immediately, and in such cases the issue would be whether the individual should be removed. The licensing sub-committee considering the matter must confine their consideration to the issue of crime and disorder. They will give comprehensive reasons for their decision and either party would be entitled to appeal if their argument is rejected.

## 7.0 Enforcement

The Licensing Authority will seek to work actively with the police in enforcing licensing legislation. It expects the police (subject to public interest immunity) to share relevant information about licensees and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Licensing Authority when any enforcement action may be required. A joint enforcement protocol is in place with the police and other statutory agencies. These protocols 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.

The Licensing Authority have a well established licensing forum 'Licensing Tasking' for the representatives of relevant organisations to meet on a regular basis to discuss Licensing matters related to the four licensing objectives.

The Licensing Authority recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs and off-licences will not always be straightforward, but it will always have regard to the licensing objectives.

The Licensing Authority will promote 'good practice' in relation to the operation of licensed premises. It will work closely with stakeholders so as to achieve on-going improvements in standards over reasonable periods of time, in the belief that this is in the long term interests of owners, operators, employees, customers and neighbours alike.

In general, action is taken in accordance with agreed enforcement principles and in line with the enforcement policies of the Licensing Authority and all Responsible Authorities. The key principles of consistency, transparency and proportionality are acknowledged. Any Government advice or requirement in relation to enforcement will be taken into account.

A graduated response is effected where there is evidence of contravention of licensing legislation or licence conditions. Whilst an isolated or minor breach might be dealt with by way of an oral or written warning, more serious breaches are likely to attract prosecution and/or a review of the licence.

Where contraventions or concerns as to compliance with regulations enforced by other agencies are identified during enforcement activities, these matters will be reported to the relevant agency. Complaints against licensed premises, allegations of unlicensed activities, and the breach of licence conditions will be investigated by Public Protection Officers

The Licensing Authority will refer to the following Policies when considering enforcement: - Enforcement Concordat (to be supported by the Regulators' Compliance Code that enables the 'Hampton principles') and Enforcement protocol agreed with Wiltshire Constabulary (published on the Council's Website: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk) ).

Under the Licensing Act 2003 as amended by the Police Reform and Social

Responsibility Act 2011 the Licensing Authority must suspend a premises licence or club premises certificate if the holder has failed to pay the authority the annual fee. This does not apply if the failure to pay the fee when it was due was because of administrative error or the holder informed the authority in writing at or before the fee was due that they were disputing liability

### **7.1 Inspection of Licensed Premises**

The Licensing Authority aim to inspect premises on a risk based approach to secure compliance with the Licensing Act and to promote the licensing objectives.

Authorised officers will have the discretion as to which premises require a 'during performance' inspection and the frequency when they are undertaken. Where appropriate, joint visits will take place encompassing a number of relevant agencies.

Licensed premises will be risk-rated by the Licensing Authority so as to develop a proportionate and targeted inspection programme.

### **7.2 Complaints Regarding Licensed Premises**

The Licensing Authority will investigate or refer to other relevant agencies/council services complaints received against licensed premises where appropriate, normally providing that the complainant's personal details and the nature of the issue(s) must be provided from the outset. For certain matters the complainant may be encouraged to raise the issue of concern directly with the licensee.

In exceptional circumstances the personal details referred to above may not be required, whilst the facts of the complaint are referred onto the Police.

### **7.3 Reviews of Licenses**

The Act sets out the arrangements to enable a review of a premises licence where it is alleged that the licensing objectives are not being promoted. This arrangement will follow an application from a responsible authority or any other person. The Section 182 guidance will be used to ensure that all matters for review are considered appropriately. The process shall not be subject to abuse by disaffected parties. Matters for consideration must be relevant, and not vexatious, frivolous or repetitious. However, matters involving the following may be considered as serious shortcomings by the licensing sub-committee at their hearings: -

- Use of licensed premises for the sale and distribution of Class A drugs and/or the laundering of the proceeds of drug crimes.
- Use of licensed premises for the sale and/or distribution of firearms.
- Evasion of copyright in respect of "pirated" films and music
- Underage purchase and/or consumption of alcohol
- Use of licensed premises for prostitution or the sale of unlawful pornography
- Use of licensed premises for unlawful gaming

- Use of licensed premises as a base for organised criminal activity
- The closure of the premises by a senior police officer, or an environmental health officer due to noise nuisance.
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks
- Use of licensed premises for the sale of smuggled tobacco or goods
- The use of licensed premises for the sale of stolen goods
- Where the police are frequently called to attend to incidents of disorder
- Prolonged and/or repeated instances of public nuisance
- Where serious risks to public safety have been identified, and the management is unable or unwilling to correct those
- Where serious risks to children have been identified e.g. repeat underage sales.
- Significant or repetitive breaches of licence conditions/licensing law
- Failure to act on previous warnings / advice / uncooperative attitude towards authorised officers.

In a hearing to determine an application for a Licence or consider a Review application, the overriding principle adopted by the Licensing Authority is that each application will be considered on its own individual merits. Licence conditions applied at such a hearing will be tailored to the individual premises and activities and only those necessary to meet the licensing objectives will be applied.

Upon review of a premises licence, the Licensing Authority must, having regard to the application for review and any relevant representations, take such steps as it considers necessary for the promotion of the licensing objectives. Such steps might be:

- The modification of the conditions of the licence
- The exclusion of a licensable activity from the scope of the licence
- The removal of the Designated Premises Supervisor
- The suspension of the licence for a period not exceeding 3 months
- The revocation of the licence.

#### **7.4 Other Powers and Legislation**

A senior police officer, of the rank of superintendent or higher, or an inspector of weights and measures, may issue a closure notice where there is evidence that a person has committed the new offence of persistently selling alcohol to children at the premises in question, and he considers that the evidence is such that there would be a realistic prospect of conviction if the offender was prosecuted for it. A closure notice will prohibit sales of alcohol at the premises in question for a period not exceeding 48 hours; and will offer the opportunity to discharge all criminal liability in respect of the alleged offence by the acceptance of the prohibition proposed in the notice. The premises licence holder will have fourteen days to decide whether or not to accept the proposed prohibition or to elect to be tried for the offence. Where the licence holder decides to accept the prohibition, it must take effect not less than fourteen days after the date on which the notice was served at a time specified in the

closure notice. Closure notices may be served by police constables, trading standards officers and community support officers.

Anti-Social Behaviour Act 2003 permits an authorised officer acting on behalf of the Council, to require the immediate closure, for a period of up to 24 hours of any licensed premises if it is considered that noise emanating from within its curtilage is causing a public noise nuisance. The 'test' is a lesser one than required to determine a statutory noise nuisance and the statutory defence of 'best practicable means' is not available.

The Licensing Authority also recognises that there are other tools and powers at their, and their partner agencies', disposal. All powers are subject to change and amendments, in particular by the Anti Social Behaviour, Crime and Policing Act 2014. More details can be made available on request to the Licensing Authority.

Other statutory requirements and opportunities for control, for example relating to planning, building regulations, fire safety, nuisance and health and safety, may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder. Advice may be obtained from the appropriate enforcing authority or from the Licensing Authority's Licensing Officers.

In general, premises referred to in an application for a licence or certificate should have planning permission granted for that use and be compliant with, or have arrangements in place to be compliant with any conditions attached to the planning permission. It is however recognised that licensing applications should not be a re-run of a planning application and the two regimes are entirely separate.

The licensing team will liaise with the relevant planning authority as appropriate.

The licensing authority will have regard to the European Convention on Human Rights particularly:-

- Article 6- entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal and
- Article 8 - the right to respect for home and private life; and
- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of their possessions, as they may interface with the licensing objectives.

## **8.0 Other Licensing Authority Powers**

### **8.1 Cumulative Impact Policy**

In the Secretary of State's Section 182 guidance on the Licensing Act 2003, 'Cumulative Impact' is defined as 'the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The number, type and density of licensed premises within an area may be such as to give rise to serious problems of crime, disorder and/or public nuisance.

The locality within which licensed premises are, or may be, located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it. Primary consideration will be given to the direct impact of the licensed activity on those living, working or enjoying the local environment.

Licensing law is not a mechanism for the general control of any anti-social behaviour being displayed by patrons once they have left the curtilage of the licensed premises. Other more specific legislation should be used. However when issues can be linked to customers from a particular premise or area then the Licensing Authority may consider it relevant to the licensing framework

In some areas there may be concentrated numbers of licensed premises that can lead to problems with the licensing objectives in the area itself or even some distance away. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises. It may not be possible to distinguish individual premises as being the sole cause, or even a major contributory factor to, a particular problem; it is the cumulative impact of all the premises that causes problems for a wider area.

All applications will be considered on their own merits, and no restriction of numbers will be imposed by this policy.

However the licensing authority may receive representations from a responsible authority or an interested party that the cumulative impact of the existing licensed premises or the granting of new licences will lead to an area becoming 'saturated' to the detriment of the locality because of impact on the licensing objectives over and above the impact of the individual premises. In these circumstances the Licensing Authority may consider that it needs to have a special policy in place.

### **8.2 Late Night Levy**

Following the introduction of the Police Reform and Social Responsibility Act 2011 the Licensing Authority may introduce a late night levy. The levy would relate to a late night supply period which begins at or after midnight and ends at or before 6am. Any premises which are not subject to an exemption who supply alcohol during the supply period on any night of the year would be required to pay the late night levy,

the level of which is based on rateable value. The late night levy will not be introduced without the required consultation as detailed in the legislation and accompanying guidance.

### **8.3 Early morning restriction order (EMRO)**

Following the introduction of the Police Reform and Social Responsibility Act 2011, if the Licensing Authority considers it appropriate for the promotion of the licensing objectives they can make an early morning alcohol restriction order.

An order would mean that any premises licence, club premises certificate or temporary event notice that authorises the sale of alcohol during the period specified in the order would not have effect. The period specified must begin no earlier than midnight and end no later than 6am.

### **9.0 Links to Strategies and Plans**

The Wiltshire Community Safety Partnership is a statutory partnership, which includes a number of local partners. Together the partnership oversees the development of various Wiltshire Strategies, in particular:

- Wiltshire Drug Strategy
- Wiltshire Alcohol Strategy
- Wiltshire Children and Young People's Substance Misuse Strategy
- Wiltshire Anti Social Behaviour Strategy
- Wiltshire Violent Crime Strategy
- Wiltshire Domestic Abuse Strategy.

To obtain a copy of any of these documents please contact the Licensing Authority.



## Appendices

- Glossary of terms

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