

Response to Licensing Task Group

23rd February 2015



Further to receipt of the Licensing Task Group final report, my observations on the report and my responses to the recommendations can be found below.

Licensing applications

Para 12: It should be remembered that there are different types of applications offering differing levels of opportunity to object. Therefore the ability of the Force to make representation using an individuals' criminal record as evidence can only occur in certain circumstances.

Para 14: It is pleasing to note that my frustrations with the lack of success in license applications not being granted is recognised by the Task Group. However, please note that this is solely due to legislation and not "in part".

Para 15: Difficulty can arise when there is an application for a new licensed premise or a new owner as there is no historic evidence that can be used to object to the application. Objection has to be based on expert opinion, experience and knowledge. I acknowledge that the quality of the evidence in these cases will be lower than when a premise already exists. However, I support the use of anticipatory judgement by the Force. The alternative seems to be to grant a licence and wait for the crime and disorder to occur before taking action. This risks harm to individuals and the community.

Para 16: Please note that I have no role in objecting to particular licensing applications as this is an operational matter. I have been very clear that I will not seek to influence the Chief Constable in the exercise of his licensing function in respect of any particular application.

Para 18: I would stress the point that it is not solely the responsibility of the Force to object to applications and that partners are also involved in this process. It is unfair to criticise the standard of evidence submitted by the Force alone. The proportion of prosecutions in Wiltshire that fail due to quality of Police input is not a valid comparison and the conclusion that is reached within the report cannot reasonable be drawn. I also refer back to the point made in respect of para 15 above.

Para 19: The report states that 'the Task Group is not in a position to assess whether the two licensing authorities are unduly cautious in the level of evidence they require before refusing applications'. If this is the case then I would question the conclusion drawn by the Task Group that the level of evidence submitted by the Force is insufficient.

Para 20: As described above, my frustration is with the legislative framework which requires a cautious approach. I do not believe there is a lack of clarity between partners.

Monitoring the operation of licensed premises

Para's 22-25, and 28: As the Panel are aware, the whole of the Force performance regime is moving away from counting numbers to assessing quality outcomes. I monitor Force performance on a weekly basis (looking at every crime type in every area) and attend the monthly Force Strategic Improvement Board which reviews exceptional performance. If

trends are identified that require action then these will be dealt with through this structure. The Panel has previously received a specific briefing on the monitoring of Force performance.

Para 29: I believe there is no requirement to define the meaning of 'irresponsible'.

Police recording of incidents at (or near) licensed premises

Para 30: The description given at this paragraph in the Task Group report is inaccurate. As a point of clarity there are four ways in which a licensed premise may be visited by an officer or a PCSO and these are:

1. The officer / PCSO is directed there due to an incident – this visit will be recorded on a Storm incident log – it will also be recorded on Niche if a crime has been committed
2. Routine visit by officer / PCSO
3. Licensing Department has requested an officer to attend and debrief an incident
4. Pro-active formal inspection visit

The statement made at para 30 in the Task Group report seems to relate to the first point above, but I believe it means to refer to those visits detailed at the second point. A Force Working Group has been established to improve quality and quantity of routine visits by officers / PCSOs and does not relate to visits carried out under points 1, 3, and 4 above. It should also be noted that Storm is not a communications log but is used to record incidents.

Para 31: As a point of accuracy it is not that attending officers are "no longer required" to record the last premise visited, it is that they are unable to due to a change in the Police National Computer (PNC). This is being addressed and an upgrade to the national system (Niche) has been requested to amend this (please see response to Recommendation 7).

Para 32: I believe this relates to the recording of visits and not the recording of incidents. Incidents will be recorded on the Storm system and Niche systems, and records are accurate. I am not aware of any evidence that suggests otherwise.

Para 33: As stated above for Para 30, the Force Working Group has been established to improve quality and quantity of routine visits by officers / PCSOs and does not relate to the recording of incidents.

Data recording, sharing and analysis

Para 38: The report states that the Force has good joint working arrangements with Swindon Borough Council but this is not the case. As per my response to Recommendation 10, the support of the Swindon Panel members in establishing this would be welcomed.

Licensing Tasking Group

Para 45: The work of the Licensing Tasking Group is well documented. I have been advised that there is a tactical assessment in place, terms of reference and protocols agreed, and minutes recorded.

Please see my responses to the report recommendations overleaf.

Rec No	Recommendation
1	<p>Instigates a dialogue with the two licensing authorities in order to clarify all parties' understanding of the level of evidence required from responsible authorities in order to justify conditions being placed on a premises license or its refusal</p> <p>I do not believe there is a lack of clarity. The Force Licensing Team works closely with Wiltshire Council and other partners through the Licensing Tasking Group. It is recognised, however, that this partnership approach is not replicated in Swindon (see recommendation 10).</p>
2	<p>Assures himself that the Police licensing team is resourced to submit the required standard of evidence in the license application process</p> <p>I can see no evidence in the body of the report that gives rise to this recommendation. Additional resource has been made available by me to support the licensing function. The team has resilience and flexibility built into it and is able to access additional resource in exceptional circumstances.</p>
3	<p>Working in conjunction with the two licensing authorities, considers the publication of a charter or protocol in which their joint views of what constitutes the responsible management of licensed premises are set out</p> <p>A Code of Practice for Licensed Premises is within the remit of the Licensing Authorities but neither they nor the Chief Constable believe that this is required.</p>
4	<p>Satisfies himself about the completeness and accuracy of the figures he receives from the Force regarding incidents and crimes relating to licensed premises and confirms that he receives those figures as a standard item in his performance reviews and that they are being proactively used by the Force to inform the allocation of police resources</p> <p>This has been previously demonstrated to the Panel in the process for the monitoring of Force performance.</p>
5	<p>Establishes the extent of any correlation between certain crime types and the irresponsible management of licensed premises in order to inform his allocation of resources in this area</p> <p>This is an operational responsibility of the Chief Constable and one that is discharged effectively.</p>
6	<p>Satisfies himself that both he and the Police and Crime Panel are able to assess the true level of irresponsible management by ensuring that data recording on the ground is complete, accurate and consistent</p> <p>Work is already underway with the Force and partners on data recording.</p>
7	<p>Considers the extent to which the removal of the 'last licensed premise visited' data field for officers attending alcohol-related incidents inhibits his ability to identify and 'crack down on' irresponsibly managed licensed premises</p> <p>An upgrade is required nationally to the Niche system which has been requested by the Force. In the meantime, through the Licensing Department, the number of Niche incidents and arrests linked to licensed premises are being recorded.</p>

8	<p>Satisfies himself that the delivery of the licensing aspects of the Police and Crime Plan would not be jeopardised by:</p> <ul style="list-style-type: none"> • The loss of a significant amount of unrecorded historic information through the departure of a key member of the Police licensing team • Inaccurate or incomplete data regarding licensed premises adversely affecting the allocation of police resources on the ground <p>These are operational responsibilities of the Chief Constable that are being properly discharged.</p>
9	<p>Satisfies himself that irresponsibly managed premises are being identified using a consistent and evidence-based methodology, so that licensed premises can have confidence in the fairness of the enforcement regime</p> <p>This is a basic requirement of the rule of the law. Neither I nor the Chief Constable are aware from this report or any other means that there is a concern that the contrary may be the case.</p>
10	<p>Continues to encourage Swindon Borough Council to consider the creation a Licensing Tasking Group along the lines of the model adopted by Wiltshire Council</p> <p>Agreed. It would be helpful if the Swindon Members of the Panel were to take on this responsibility.</p>
11	<p>Supports Wiltshire Council's intention to take a more holistic view of the night time economy</p> <p>Agreed. A holistic view is generally preferable. Support will depend on what particular view is adopted.</p>
12	<p>Satisfies himself that the Licensing Tasking Group's work is documented, systematic and evidence-based in order to ensure it</p> <ul style="list-style-type: none"> • prioritises the right issues and premises • can continue to function effectively when key personnel move on, and • Licensed premises can have confidence in the fairness of the enforcement regime <p>These are operational responsibilities of the relevant Chief Officers and they will be reviewed in the normal course of events. However, I have given details earlier in this response of the systems that are in place (please see comments against para 45 above).</p>
13	<p>Works with other Commissioners and other colleagues nationally to raise the profile of the issues identified regarding the current Temporary Event Notice (TEN) system</p> <p>Any representations from the Licensing Task Group will be carefully considered. This is not an issue that has been raised previously as a police concern.</p>
14	<p>Publishes an indicative business case for the introduction of Late Night Levies in Wiltshire and Swindon, including:</p> <ul style="list-style-type: none"> • details of the Levy's successful introduction in local authority areas that are comparable to Wiltshire and Swindon;

	<ul style="list-style-type: none"> • how the income generated by the Levy in the those area(s) is being used to support the achievement of the licensing aspects of the relevant Police and Crime Plans and the objectives of the Licensing Act 2003; • the extent of the current “harm caused by irresponsibly managed licensed premises” in Wiltshire and Swindon <p>There is no local authority area that is comparable to Wiltshire or Swindon where Late Night Levy’s have been introduced. Introduction of Late Night Levy’s will be dependent on whether there is any prospect that the local authorities will change their position on this issue. I have recently written to the two Licensing Authorities requesting information on eligible premises and their rateable value be shared with myself as part of the consultation process.</p>
15	<p>Publically takes a position on the other measures available for managing the night time economy, such as Cumulative Impact Policies and Early Morning Restriction Orders</p> <p>Agreed, subject to operational advice.</p>

Angus Macpherson
Police and Crime Commissioner
Wiltshire and Swindon