

Agenda Item 7 (c)

Environmental Services
Salisbury District Council
PO Box 2126
Salisbury, Wiltshire SP2 1DJ

direct line: 01722 434291
fax: 01722 434643
email: jmccclay@salisbury.gov.uk
web: www.salisbury.gov.uk

Report

Subject : Review of Licensing Policy
Report to : The Cabinet
Date : Wednesday 05 December 2007
Author : Joanne McClay, Environmental Health Manager
Cabinet Member for Environment: Councillor Robertson

1. Purpose of Report

1.1. To seek Cabinet consideration of the draft revised Licensing Policy.

2. Background

- 2.1. The responsibility for licensing of alcohol sales, regulated entertainment and late night refreshment passed to the Licensing Authority of the Council on 24 November 2005, under the Licensing Act 2003. The Act required the Council to publish a licensing policy prior to implementing the legislation. This was approved by Full council in December 2004, prior to its publication on 5 January 2005.
- 2.2. The Licensing Act 2003 requires the council to review the policy every three years and to consult on the proposed amendments prior to approval by the full council. The aim of reviewing the existing policy is to remove the obsolete information relating to the transitional arrangements and update it in line with new guidance.

3. Timescale for Implementation.

- 3.1. A draft revised Licensing Policy was produced by officers in readiness for consultation. The consultation period for the draft ended on the 2 November 2007. The consultation involved written communication with all representatives of the responsible authorities and appropriate bodies, and advertisement on the council website and in the local press.
- 3.2. The Act requires Full Council to approve the Council's Licensing Policy and does not provide for this function to be delegated. It is therefore intended that the draft policy will be put before full Council at its meeting on 10 December 2007.
- 3.3. The Licensing Authority is required to publish the new policy by the 7 January 2008.

4. Consultation:

- 4.1. The Council received four responses during the consultation process. These were from The Wiltshire Fire and Rescue Service, Salisbury District Council Environmental Services, the Wiltshire PCT and the National Trust (represented by Horsey, Lightly, Fynn Solicitors).
- 4.2. It should be noted that comments attributed to Environmental Services originate from environmental health officers normally unconnected with the Council's Licensing function. Consequently, and in the interests of transparency, their comments were sought as part of the consultation exercise rather than at the point of drafting the policy.
- 4.3. The consultation responses were reviewed in line with the Licensing Act and the guidance issued under section 182 by the Department of Culture Media and Sport.

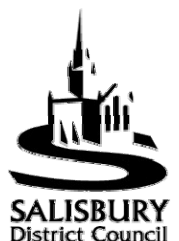


INVESTOR IN PEOPLE



CUSTOMER SERVICE EXCELLENCE

Awarded in:
Housing Services
Waste and Recycling Services



- 4.4. The amendments made to the draft policy are detailed in the Schedule of Actioned Responses to the Revised Licensing Policy, attached as Appendix A.
- 4.5. Many of the comments received were acknowledged and incorporated into the draft policy. However this was not possible with every comment received. Comments were disregarded where it was considered they were adequately covered in the draft revised policy, or where including them in the policy would duplicate requirements of the Licensing Act or associated guidance. In addition, amendments were not made to the policy where comments could be dealt with more appropriately by other legislation such as The Health and Safety at Work Act 1974 etc.
- 4.6. The Licensing Act requires that the policy is a general policy on how the council will implement the legislation and therefore company specific comments were disregarded. Over prescriptive comments were also discounted to ensure that individual businesses are not disadvantaged. In the interest of fairness and due legal process it is essential that each application will be assessed on its individual merits.

5. Amendments

- 5.1. The section relating to licensing hours has been amended to comply with current guidance and legal precedent. The Act suggests that there should be no blanket conditions or artificial restrictions on licensing hours. Comments relating to specific hours could be interpreted as forming a blanket policy or appear by implication to be a required condition or considered as a pre-judgment of an application. The Guidance indicates that “standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case”; further that “each application must be considered on its own merits”. These comments have been therefore been removed from the policy. This does not prevent the Licensing Committee from making decisions around licensing hours based on valid representations, but the matter should not appear to be predetermined within the Council’s policy. The police have no concerns with the removal of this section.

6. Conclusions:

- 6.1. The policy remains largely similar to the one that it replaced and which was considered to have been successful in implementing the 4 key licensing objectives. This is why changes have mainly focused on items such as contact details and references. All comments that related to the transitional period i.e. the change from the old licensing acts to the Licensing Act 2003, known as Grandfather Rights, have now been removed.
- 6.2. The terminology has been clarified in line with current guidance to ensure that the policy is proportionate and relevant, and that areas which may have previously lead to uncertainty have been clarified. It is considered that the revised policy will continue to serve the council well into the future.

7. Recommendations:

- 7.1. It is recommended that Members:
 - 7.1.1. Support the draft revised Licensing Policy
 - 7.1.2. Recommend to full Council that the draft revised Licensing Policy be approved

8. Background Papers: None

9. Implications:

- Financial** : None
- **Legal** : Review of the policy was required to avoid the potential for a judicial review relating to blanket conditions over licensing hours and making the process more equitable for all applicants.
- **Human Rights** : None
- **Personnel** : None
- **Community Safety** : Ensuring public safety through the 4 licensing objectives
- **Environmental** : None
- **ICT** : None
- **Council's Core Values** : Fairness and equal opportunity, communicating and working together to provide a sustainable district and thriving economy.
- **Wards Affected** : All

Schedule of Actioned Responses to the Revised Licensing Policy

| Respondent | Comments/Heading | Response | Policy Page Number |
|--|---|---|--------------------|
| | Scope of Policy | | |
| National Trust (represented by Horsey, Lightly, Fynn Solicitors) | Suggest that the policy should also be applicable to applications for the review of licenses. | Move and restructure the sentence for clarification. Add the words “all” and “relating to” for clarification. | 5 5 |
| | Terminology | | |
| Environmental Services | Inclusion of distance in the description for vicinity considered over prescriptive. | Add the word “generally” prior to the distance within the definition to ensure every application treated individually on merit. | 7 |
| | Prevention of Public Nuisance | | |
| Environmental Services | Queries the priority given to “noise limiting features” and the emphasis placed on noise “limiters”, which led to unenforceable conditions. Suggests – “The design and layout of premises and noise control measures employed”. | Insert the revised sentence for clarity. | 10 |
| Environmental Services | Unclear as to what a sound insulation device is. Recommends – “Sound Control measures”. | Sentence revised for clarity. | 10 |
| | Protection of Children from Harm | | |
| National Trust (represented by Horsey, Lightly, Fynn Solicitors) | Details of the “proof of age” schemes recognised by the authority should be included, along with examples. | Sentence replaced in line with DCMS Section 182 Guidance on the Licensing Act 2003(page 120) | 12 |

| | | | |
|-----------------------------------|--|---|----|
| | Enforcement | | |
| Environmental Services | The term “targeted” is used in respect of premises not complying with the requirements of the Licensing Act. This term may be interpreted as being overbearing and not proportionate. Recommendation that “targeted” is replaced with “monitored”. | To comply with the requirement for proportionate measures, the words “Focused upon” have replaced “targeted”. | 15 |
| | Appendix 1 | | |
| Wiltshire PCT | Salisbury Primary Care Trust to be replaced with Wiltshire Primary Care Trust. | Amendment made | 17 |
| | Appendix 2 | | |
| Wiltshire Fire and Rescue Service | Delete – ‘Fire Safety and Employers guide’, no longer in print and insert details for the Fire Risk Assessment series of publications (details supplied). | The publications list has been revised to include these publications. | 18 |
| Environmental Services | There is no reference to risk assessment as a control measure. It is recommended that a reference be made to ‘the Purple Guide’ for those organising sizeable outdoor events. | The publication list has been revised to include this publication. | 18 |
| | Appendix 3 | | |
| Environmental Services | It should be made clear that the reader should refer to the legislation for the exact wording of the exemptions | Reference to the Licensing Act 2003 inserted. | 19 |



SALISBURY DISTRICT LICENSING AUTHORITY

STATEMENT

OF

LICENSING POLICY

**Draft Licensing Policy 2008
Amended on 05 November 2007 following consultation**

CONTENTS

| | |
|---|-----------|
| INTRODUCTION | 3 |
| STATEMENT OF LICENSING POLICY | 4 |
| Scope of Policy | 5 |
| Premises Licences | 5 |
| Personal Licences | 5 |
| Temporary Events Notices | 6 |
| Club premises certificates | 6 |
| Exemptions | 6 |
| Terminology | 6 |
| Fees | 7 |
| LICENSING OBJECTIVES | |
| Prevention of crime and disorder | 8 |
| Public safety | 9 |
| Prevention of public nuisance | 10 |
| Protection of children from harm | 12 |
| Licensing hours | 13 |
| GENERAL PROVISIONS | |
| Cumulative Impact | 14 |
| Integration of Policies and Avoiding Duplication | 14 |
| Conditions of Licence | 14 |
| Enforcement | 15 |
| Anti Social Behaviour | 15 |
| Licensing “Responsible Authorities” | 15 |
| Temporary Events Notices - notifications | 15 |
| Delegation of Duties | 15 |
| Advice and Guidance | 16 |
| Equal Opportunities | 16 |
| Contacts | 16 |
| Appendix 1 - Licensing Policy – Consultees | 17 |
| Appendix 2 - Sources of Information and Guidance | 18 |
| Appendix 3 – Exemption | 19 |
| Appendix 4 - Mandatory Conditions | 21 |
| Appendix 5 - Delegation of Functions | 22 |
| Appendix 6 - Contacts | 23 |

LICENSING POLICY

INTRODUCTION

Salisbury District Licensing Authority is the authority responsible for licensing under the Licensing Act 2003 within the administration area of Salisbury District Council

Located in South Wiltshire, Salisbury District Council covers an area of 400 square miles (1004 square kilometres), which represents about one third of the total land area of Wiltshire.

Salisbury District has a population of 115,850 and about a third live in or close to Salisbury itself.

Salisbury is a medieval Cathedral city based on a chequer street system dating from the 13th century. Nearby is the World Heritage site at Stonehenge.

There are thirteen Ministry of Defence (MOD) establishments in the District.

Salisbury Tourism Information Centre welcomed around 126,000 visitors in 2006/7. It is estimated that the tourism industry in Salisbury District supports over 4,500 jobs.

Almost half of the District is categorised as an Area of Outstanding Natural Beauty (AONB)

Salisbury has attracted several high profile nightclubs and large 'chain' public houses as well as the more traditional inns and hotels. There is a thriving evening/late night economy, especially at weekends. There are other venues to the north of Salisbury but few in the small towns and villages to the west. The main competition is from Bournemouth and Southampton.

Perhaps in view of the street pattern and the proximity of night time venues to local residents there has been some friction, especially in the city centre. Whilst much has been achieved to reduce friction there are still significant implications for the Police, Council and NHS.

Salisbury District Council is actively involved with the South Wiltshire Safety Partnership and others in addressing issues associated with the consequences of drug and alcohol abuse.

STATEMENT OF LICENSING POLICY

The Licensing Act 2003 requires the Licensing Authority to determine its policy with regard to its licensing function. A 'licensing statement' must be published every three years. The policy must reflect official guidance published by the Department of Culture, Media & Sport and have regard to the Licensing Objectives i.e.

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

This document constitutes the Salisbury District Licensing Authority policy. It has been subjected to consultation with a wide range of organisations and bodies representing the population of Salisbury District Council - See Appendix 1. Their responses were taken into consideration in the final version of the policy which has been approved by full Council.

The focus of the Licensing Policy is on the direct impact of activities taking place at the licensed premises upon the members of the public living, working or engaged in normal activities in the area concerned. Licensing law and this policy are not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned.

The council is aware of concern arising from behaviour which cannot be attributed to a particular premise and will work with the police and partners to address this issue.

It is recognised that the best means of promoting the licensing objectives is through co-operation and partnership between planning, environmental health and safety authorities, the police, the fire authority, crime and disorder reduction partnerships, town centre managers, local businesses, performers and their representatives, local people, local transport authorities, transport operators and those involved in child protection. With this in mind regard has been given to a range of information and guidance - see Appendix 2.

Information leaflets, Codes of Practice and guidance are available from government bodies and the Local Authority to accompany the policy.

Scope of Policy

This policy is concerned with the licensing of premises engaged in 'licensable activities' i.e.

(a) The sale of alcohol or supply of alcohol to club members

(b) The provision of 'regulated entertainment' i.e. where entertainment involves: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment (indoor or outdoor)
- Any performance of live music
- Any playing of recorded music
- Any performance of dance
- Provision of facilities for making music
- Provision of dancing facilities

(c) The provision of late night refreshment

- Supply of hot food or drink from a premises from 23.00 to 05.00 hours

A person may apply for permissions for any number of the above.

The Licensing Authority will view every application, including those for a review and make decisions based on its licensing policy, the Licensing Act and the related guidance.

All applications will be considered on their individual merits when representation is made by a responsible authority or an interested party.

The value of a broad range of entertainment is acknowledged and will be encouraged, particularly that involving live music, dancing and theatre. Whilst appreciating the concern to prevent disturbance to others, the Licensing Authority will not seek to deter such entertainment.

This policy is relevant to the administrative area of Salisbury District Council. It is not intended to cover all the statutory provisions contained in the Licensing Act 2003 and associated Regulations and Guidance. Readers are strongly advised to be aware of those provisions, supplementary details and information. Codes of Practice are available via the internet.

The policy will be used when considering all applications relating to the following: -

Premises Licence

A premises licence allows the holder to use the 'licensed premises' for 'licensable activities'. The new licence will be of unlimited duration unless otherwise requested.

There are no statutory limitations on the hours or days during which businesses are able to provide 'licensable activities' and applicants may apply for any operating times.

Personal Licence

A personal licence authorises an individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence. Personal licences are valid for 10 years and will be 'portable' between premises. All Designated Premises Supervisors must have a Personal Licence and all new applicants will require a licensing qualification.

Temporary Events Notices

These are notices from individuals wishing to hold a temporary event which includes licensable activities and where there will be no more than 499 attendees. Events are limited to a maximum of 96 hours on no more than 12 occasions per year, but subject to them not exceeding a total of 15 days. Detailed guidance is available on the application available via the Authority's website or on request.

Club Premises Certificates

These certificates provide authorisation for qualifying clubs to use club premises for certificated club activities. The activities include the supply of alcohol by or on behalf of a club to a member for consumption on or off the premises, or the sale by retail of alcohol by or on behalf of a club to a guest of a member for consumption on the premises, and the provision of regulated entertainment.

Exemptions

There are important exemptions - see Appendix 3.

Terminology

The following terminology will be used in this policy: -

Authorised Persons

Authorised persons include those authorised to carry out inspection and enforcement roles. They will generally be from the responsible authorities.

Designated Premises Supervisor

A person named in the licence as the person supervising the premises - only applies when premises are licensed for the supply of alcohol. This person must have a Personal Licence.

The person may or may not be the same person who 'holds' the premises licence.

Interested Parties

An interested party can make objection to the Licensing Authority about the likely effect of granting a particular licence with respect to the promotion of the licensing objectives. However, representations will not be considered relevant where the Licensing Authority considers them to be frivolous or vexatious.

An 'interested party' includes:

- Any person living in the vicinity of the premises and/or anybody who has been authorised by a person living in the vicinity to represent them.
- Any person involved in a business in the vicinity and/or a body authorised to represent such persons.

Licensing Committee

The Licensing Authority has set up a committee comprising of elected representatives (Councillors) to consider and decide upon licence applications

Licensing Qualification

A qualification awarded by an accredited body to demonstrate the competence of the holder.

Licence Register

A register will be kept of all premises licences, club premises certificates, temporary event notices and personal licences issued by the Licensing Authority.

Operating Schedule

An operating schedule must set out precise details of the particular types of licensable activities carried on at the premises and what steps will be taken to promote the licensing objectives.

Responsible Authority

Responsible Authorities include public bodies that must be consulted about applications. These include the Police, the Fire Authority, the Local Authority responsible for planning and environmental health and the enforcement agency for Health & Safety (generally the local authority) and the Wiltshire Local Safeguarding Children Board.

Vicinity

It is recognised that “in the vicinity” is not clearly defined in current legislation. The licensing authority will **generally** interpret in the vicinity as 500m in the case of sparsely populated rural areas and 100m in any other case, however, every application where valid representation is received will be viewed on its individual merits.

Fees

The Licensing Authority will charge fees in accordance with those set by the Department of Culture, Media & Sport. These are available on the DCMS website at www.culture.gov.uk.

LICENSING OBJECTIVES

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(s) and they will pay particular attention to them at a hearing, when deciding applications and applying any conditions. A hearing must be called, when relevant and valid representation is made by interested parties or responsible authorities, based upon the four licensing objectives. The licensing authority cannot refuse an application or attach conditions if there is no valid representation. Guidance is available from the Licensing Authority.

Prevention of Crime and Disorder

The Licensing Authority is committed to further reducing crime and disorder within the district. This is a major element of the South Wiltshire Community Safety Partnership's Crime & Disorder Strategy.

Applicants must consider crime and disorder issues that are relevant to their premises. The operating schedule should demonstrate that suitable and sufficient measures will be implemented and maintained to minimise or prevent crime and disorder in and around the vicinity of their premises. We suggest applicants may consider the following issues:

Underage drinking
Drunkenness on premises
Public drunkenness
Drugs
Date rape
Violent behaviour
Unbreakable glasses and the supply of bottles

The following examples of control measures are given to assist applicants when considering their operating schedule.

- Effective and responsible management and supervision of the premises, including associated open areas;
- Demonstrate appropriate instruction, training and supervision of those employed or engaged to prevent incidents of crime and disorder;
- Adoption of existing and future best practice schemes and guidance (e.g. Pub Watch Scheme, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other recognised codes of practice, including those relating to drinks' promotions, e.g. The Point of Sale Promotions published by the British Beer and Pub Association); Promotions that are likely to lead to irresponsible or "binge" drinking will be actively discouraged and in this respect membership and participation in the above schemes will be encouraged.
- Demonstrate acceptance of accredited 'proof of age' scheme, by means of documentation from time to time recognised by the Licensing Authority in consultation with the Police;
- Provision of effective CCTV in and around premises;
- Employment of sufficient Security Industry Authority licensed door staff;
- Provision of toughened or plastic glasses;
- Provision of security measures, such as lighting outside premises;
- Capacity limits to avoid overcrowding - see also public safety;
- Restriction on areas where alcohol may be consumed;
- Open containers not to be taken from the premises;
- Following the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- Crime Prevention Notices;
- Signage;
- Use of text/radio pagers to provide rapid response.
- Provision of appropriate staff wearing identifiable high visibility clothing.

(Note: The above guidance list will not be relevant in all cases and is not considered to be exhaustive.)

Public Safety

The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.

Applicants must consider public safety issues (including fire safety) that are relevant to their premises. The operating schedule should demonstrate that suitable and sufficient measures will be implemented and maintained to ensure public safety. Requirements of other legislation need not be repeated but can be referred to if the applicants require.

Issues of relevance when addressing public safety could include.

- The number of people attending the premises; (dependent on the type of premises this may be a fire requirement or be subject to a representation leading to a condition on the grounds of public safety)
- The condition, design and layout of the premises, including the means of escape in case of fire;
- The nature of the activities to be provided, in particular the sale or supply of alcohol, and including whether those activities are of a temporary or permanent nature;
- The hours of operation and hours of opening if different;
- Customer profile (e.g. age, disability etc.);
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- Curtains, hangings, decorations and upholstery

The following examples of control measures are given to assist applicants when considering their operating schedule.

- Suitable and sufficient understanding of risk to public safety
- Effective and responsible management of premises;
- Demonstrate appropriate instruction, training and supervision of those employed or engaged on the premises or associated with the event.
- Emergency procedures - access/egress;
- Provision of a sufficient number of people employed or engaged to secure the safety of everyone attending the premises or event;
- Adoption of best practice guidance;
- Adequate lighting;
- Provision of effective CCTV in and around premises;
- Provision of toughened or plastic glasses (no glass bottles);
- Provision of and appropriate staff wearing identifiable high visibility clothing
- Implementation of crowd management measures;
- Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety (includes temporary installations);
- First Aid;
- Procedures relating to any alteration of the premises.

(Note: The above guidance list will not be relevant in all cases and is not considered to be exhaustive.)

Prevention of Public Nuisance

Licensed premises have a significant potential to impact adversely on communities through public nuisances, which can arise from their operation. The Licensing Authority recognises the need to maintain and protect the amenity of residents, visitors and other businesses from the potential consequence of the operation of licensed premises, whilst balancing the rights of licensed premises to develop their business potential.

The Licensing Authority understands 'public nuisance' to include such issues as noise and disturbance, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

Applicants must consider issues which may cause public nuisance. The operating schedule should demonstrate that suitable and sufficient measures will be implemented and maintained with the intention of preventing public nuisance.

The Licensing Authority recognises the intention of the legislation in seeking to achieve a more flexible licensing regime with the concept of wider hours of operation than previously existed. Conversely, it must be appreciated that premises seeking to provide late hours of operation can present a greater potential for public nuisance and adversely affect residential amenity. There will be occasions when proposals for extended hours of operation may be unsuitable.

The Licensing Authority will not support drinks' promotions that encourage the irresponsible consumption of alcohol, such as binge drinking. If such promotions are held they should be in accordance with industry best practice guides.

Issues of relevance when addressing the prevention of public nuisance could include: -

- The type and location of premises (includes land) and proximity to residential and other noise sensitive premises (e.g. hospitals, hospices and places of worship);
- The hours of opening;
- The nature of activities to be provided, the customer profile, whether the activities are of a temporary or permanent nature and whether they are to be held inside or outside premises;
- The design and layout of premises and noise control measures employed;
- The number of people attending the premises;
- The availability of public transport;
- A 'wind down' period between the end of the licensable activities and closure of the premises;
- A 'last admission time' policy/charges for late admission.

The following examples of control measures are given to assist applicants when considering their operating schedule.

- Effective and responsible management and supervision of premises (private or public) and associated open areas e.g. gardens, patios and car parks, market places, parks, playing fields.
- Demonstrate appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance;
- Control of opening hours for all or part (e.g. garden areas) of the premises (including other times where deliveries take place) and the operation of noise generating plant and equipment;
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs produced by the Institute of Acoustics);
- Where appropriate, the installation of acoustic insulation, suitably controlled, sited and silenced ventilation or air conditioning systems and sound control measures;
- Management of people, including staff, and vehicles (and resulting queues) arriving at and leaving from premises;
- Liaison with public transport providers;
- Siting of external lighting, including security lighting so as to be effective without causing 'light pollution';
- Management arrangements for the collection and disposal of litter attributable to the premises/activity;
- Effective ventilation systems to prevent nuisance from odour.

When representation is received in relation to an application the committee will deal with each one on its individual merits, and conditions will be imposed on licences that are relevant, proportionate and considered necessary to minimise the effect of the premises on those living and/or working in the area. Strict conditions are more likely to be imposed where premises are situated near to residential areas.

The Licensing Authority recognises that the licensing function cannot be seen as a mechanism for the general control of anti social behaviour by individuals once they are beyond the direct control of the licensee or any premises. This however is seen as an important element and in this respect the Licensing Authority will work closely with others.

Measures to reduce the impact of anti social behaviour include:

- Planning controls;
- Positive measures to create a safe and clean city/town centre environment in partnership with local business, transport operators and other service units;
- Powers to designate parts of the area as places where alcohol may not be consumed publicly;
- Police enforcement of the normal law concerning disorder and anti social behaviour;
- Preventing the sale of alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas.

(Note: The above guidance list will not be relevant in all cases and is not considered to be exhaustive.)

Protection of Children from Harm

Allowing children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure. Clearly this places additional responsibilities on licence holders. Whilst a personal licence holder will need a criminal record check other persons involved with premises/activities specifically associated with children are advised to seek guidance regarding criminal record checks. The Licensing Authority recognise that parents have responsibilities and applicants may wish to consider this within their operating schedule

The protection of children from harm includes protection from moral, psychological and physical harm. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and their lack of understanding of danger.

The Licensing Authority considers that there should be no presumption either of giving children access or of preventing their access to licensed premises. At a hearing following valid representation, the Licensing Authority will review every application on its own merits and consider the representation made. The Licensing Authority will not necessarily impose conditions requiring the exclusion of children, but will ensure that children are adequately protected from harm. The Licensing Authority believes that prohibiting the admission of children to any premises remains a matter of discretion for the applicant.

Applicants must consider issues related to protecting children from harm. The operating schedule should demonstrate that suitable and sufficient measures will be implemented and maintained to ensure children are protected from harm.

Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation.

Issues of relevance when addressing the issue of protecting children from harm could include:

- Drugs, drug taking or drug dealing;
- Gambling; (not necessarily all amusement with prizes machines)
- Activities of an adult or sexual nature;
- Incidents of violence or disorder;
- Environmental pollution such as noise;
- Special hazards such as falls from heights;
- Opportunities to acquire or consume alcohol.

The following examples of control measures are given to assist applicants when considering their operating schedule.

- Effective and responsible management of premises;
- Provision of a sufficient number of people employed or engaged to secure the protection of children, including child performers, from harm; A higher ratio of such persons will be necessary when an event is known (or is likely) to attract a particularly high percentage of children
- Demonstrate appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm;
- Adoption of best practice guidance;
- Limitations on the hours when children may be present in all or parts of the premises;
- Limitations or exclusions by age when certain activities are taking place;
- Imposition of requirements for children to be accompanied by an adult;
- Acceptance of accredited 'proof of age' documentation, the PASS scheme, passports and photographic driving licenses.
- Adherence to the Portman Group Code of Practice or Naming, Packaging and Promotion of Alcoholic Drinks.

In the case of film exhibitions, the Licensing Authority will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification. In the case of a film exhibition that has not been classified, the Licensing Authority will expect a licensee

to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.

(Note: The above guidance list will not be relevant in all cases and is not considered to be exhaustive.)

Licensing Hours

The Licensing Authority recognises that 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 tend to leave licensed premises at the same time. Longer licensing hours may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.

As far as the Licensing Authority's overall approach to licensing hours is concerned, it is not intended that any form of zoning will be introduced as this can lead to the significant movement of people in search of premises opening later.

The Licensing Authority does not wish to inhibit the development of a thriving and safe evening and night time economy and recognizes the importance of tourism, local investment and employment opportunities. This must however be balanced with the concerns of residents, businesses and responsible authorities, ie police, fire, and Salisbury District Council services.

Every application where valid representation has been received will be determined on its individual merits

The Licensing Authority appreciate that under the Licensing Act 2003, applicants are free to apply for the hours that they consider appropriate to the nature of their individual premises. The Licensing Authority note that the guidance issued by the Department of Culture Media and Sport proposes that, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount consideration at all times. Further that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons based upon the four licensing objectives for restricting those hours at a hearing resulting from the receipt of valid representation.

The Licensing Act 2003 does not provide automatically for "drinking up time", it does provide a mechanism by which applicants can build in their own "drinking up time". Applicants are required to specify the hours for the sale of alcohol and the time the premises will be closed to the public.

The Licensing Authority assumes that licence holders will seek to prevent the purchase of excessive quantities of alcohol at the end of the authorised hours, which would lead to the premises remaining open for a long period after the sale of alcohol has ceased.

GENERAL PROVISIONS

Cumulative Impact

The Licensing Authority will take account of the cumulative impact of licensed premises on the promotion of the licensing objectives.

The Licensing Authority may receive representations from a responsible authority or an interested party, that an application could lead to an area becoming saturated with premises of a certain type; making it a focal point for large groups of people leading to exceptional problems of disorder and nuisance in excess of that from an individual premises. In such cases cumulative impact will be taken into account when considering the individual merits of any application in the light of the Licensing Objectives.

It may be argued that there is a “need” for certain premises. This relates more to the commercial demand for a particular type of premises e.g. a pub, restaurant or hotel. The issue of ‘need’ is therefore considered to be a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

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 in particular areas. Instead, 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, and clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the impact they are likely to have on the local community.

In determining appropriate measures the Licensing Authority may following consultation (which will include consultation with those listed in Section 5(3) of the Licensing Act 2003 i.e. police, fire, representatives re. holders of premises licenses, club certificates, personal licenses and representatives of businesses and residents) adopt a ‘saturation’ policy for a particular area and may, among other things –

- Gather evidence or identification of serious and chronic concern from a responsible authority or interested parties about nuisance and disorder
- 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.

Integration of Policies and Avoiding Duplication

Any decision in relation to licensing applications will be entirely separate from any requirements in relation to development control. There will however be liaison with regard to licensing for the area, including reference to the general impact of alcohol related crime and disorder.

Duplication with other regulating agencies will be avoided and conditions will only be attached to Licences at a hearing, which are necessary for the promotion of the licensing objectives.

The Licensing Authority welcomes the input from agencies involved in other strategies and policies that could impact upon the district, in both the formulation and application of this policy. The Licensing Authority recognises its responsibilities under the current legislation relating to Crime and Disorder and anti social behaviour and will liaise to ensure the licensing objectives are achieved.

Conditions of Licence

The Licensing Act 2003 sets out mandatory conditions that must be attached to licences regarding the sale of alcohol, the exhibition of films and door supervision. (See Appendix 4).

It is emphasised that where responsible authorities and interested parties do not raise any representations about an application, it is the duty of the Licensing Authority to grant the licence or certificate subject to the mandatory conditions and those which are consistent with the operating schedule. Where representations are made, the Licensing Authority may, following a hearing, impose appropriate conditions necessary to promote the licensing objectives.

The Licensing Authority will not impose standard, disproportionate or over burdensome conditions. Where valid representation has been received, the application will be viewed on its individual merits and conditions imposed that are relevant, proportionate and necessary to help meet the four licensing objectives. The licensing authority will draw upon current guidance issued by the Department of Culture Media and Sport, and in addition best practise guides from the industry and other relevant bodies.

Enforcement

Enforcement arrangements have been made between the Licensing Authority, Salisbury District Council and Wiltshire Police, in the form of an enforcement protocol, which will supplement this policy. Announced and unannounced inspections (sometimes multi agency) will be made to ensure the compliance with the Licensing Act 2003, its objectives and the individual conditions attached to licences, following a licensing committee hearing or from the applicants operating schedule. Enforcement visits will be at the discretion of the Council and the responsible authorities. Records of visits will be kept to assist in identifying premises causing concern.

It is recognised that resources are not unlimited and will be concentrated on areas of need. Whilst due recognition will be given to those premises which are shown to be well managed and maintained, premises not complying with operating schedules or licence conditions or premises or licence holders contravening licensing laws will be **focused upon** and appropriate action will be taken. This may include prosecutions for contraventions of the legislation and/or the making of representations to the Licensing Authority to review a licence.

Enforcement will be in accordance with the Salisbury District Council, Environmental Services, Enforcement Policy and the Government Concordat on Good Enforcement.

Anti Social Behaviour

Anti Social behaviour undermines the future of communities and creates an environment of fear and neglect. . Where evidence links antisocial behaviour to an individual premises it could be controlled by the Licensing Act 2003 in addition to the other relevant legislation. Where appropriate, relevant information will be shared with responsible authorities and other agencies.

Licensing “Responsible Authorities”

Responsible authorities are able to make representations regarding licenses and are the authorities responsible for policing, planning, environmental health, fire issues health and safety, and community safety.

It is recognised that there may be a conflict of interest where applications are received from Salisbury District Council and related bodies and in this respect there will be no differences in the way the Licensing Authority deal with these applications, grants or enforcement.

It is likely that Salisbury District Council will seek premises licences for premises and public open spaces owned and operated in its own name (e.g. City Hall, Guildhall, Market Place,). In such cases performers and entertainers would not necessarily need to obtain licences or give a temporary event notice themselves to enable them to perform in these places. They will require the Council's permission however and any decision will be at the discretion of the Council. The Council will not take responsibility for events organised by others over and above statutory requirements.

Temporary Events Notices

The regulations require the notice to be served a minimum of ten working days prior to the first day of the proposed event. However, the Licensing Authority and the Police recommend that the notice is served a minimum of 28 days before the event, but no earlier than 4 months prior to the event.

The only responsible authority who can make an objection to the service of a notice is the police. The police have 48 hours from the receipt of the notice in which to make representation to the Licensing Authority and these can only be made on the grounds of crime and disorder. The Police can agree amendments with the person who served the notice, however, if the police do not withdraw the representation, the application will be decided upon at a hearing of the Licensing Sub Committee.

TENS notifications may be referred for information to other parts of the council and other agencies who may wish to take action utilising their own regulatory powers.

Delegation of Duties

Officers will be delegated to carry out duties on behalf of the Licensing Authority in accordance with the council's scheme of delegation.

The licensing function will be administered by the Licensing Committee, sub committees and officers, as per the scheme of delegation (See Appendix 5).

Advice and Guidance

Pre application discussions with responsible authorities, interested parties and other stakeholders will be encouraged to assist applicants in submitting applications which enable them to meet the four licensing objectives. The Licensing Authority can only provide support and advice, they cannot take on a role which is legitimately the responsibility of the applicant.

The Licensing Authority will encourage applicants and those who may make representations to work together in order to resolve areas of concern about an application. However, once a completed application has been lodged, there are statutory timescales imposed upon the application and determination processes, which may then restrict the opportunity for discussion and liaison.

Equal Opportunities

Copies of this policy can be made available in large type. A translation service can be arranged on request.

The licensing policy will be implemented with due regard to the council's obligation to eliminate unlawful discrimination and promote equality of opportunities and good relations between persons of different racial groups.

Contacts

See Appendix 6 for details.

Appendix 1

Licensing Policy – Consultees

- Community Safety Partnership
- Drugs and Alcohol Team
- Children and Young People's Strategic Partnership
- Wiltshire Race Equality Council
- South Wiltshire Strategic Alliance
- Salisbury Tourism Partnership
- Wiltshire Primary Care Trust
- Salisbury NHS Foundation Trust
- Chief Officer of Police
- The Fire Authority
- Wiltshire County Council
- Bodies representing likely holder of premises/personal licences and club premises certificates etc.
 - Licence Victuallers Association
 - The Association of Licensed Multiple Retailers
 - British Institute of Innkeepers
 - Pub Watch Schemes
 - Club operators
 - Holders of specific licences e.g. late night refreshment, theatres, cinemas etc.
- Bodies representing business and residents
 - Councillors (District/Parish WCC)
 - Council Tax Payers Association
 - Chamber of Commerce
 - Association of Small Businesses
 - City Centre Management.

Licence Applications – Consultees

- “Statutory” consultees include the police and fire authority.
- New and variation applications must be advertised and residents and businesses in the vicinity of the premises will be entitled to make representations regarding the application in their capacity as an ‘interested party’.

Appendix 2

Sources of Information and Guidance

- Guidance issued under section 182 of the Licensing Act 2003 by the Department for Culture Media and Sport
- Responsibilities under the Crime and Disorder Act 1998
- Safer Clubbing;
- LACORS/TSI Code of Best Practice on Test Purchasing
- Code of Practice on the Control of Noise from Pubs & Clubs – Institute of Acoustics
- Tackling Crime in the Night Time Economy.
- Improving Community Safety – SDC Political Priority
- Community Safety Partnership – relevant targets
- Community and Housing Overview a Scrutiny Panel – SDC “Council in contribution to tackling anti-social behaviour”.
- National Alcohol Reduction Strategy – Code of Practice
- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
- Wiltshire Directory of Drug and Alcohol Services, at www.wiltshire.gov.uk.
- Fire Risk Assessment – Small & Medium Places of Assembly – ISBN 13:9781 85112 8204
- Fire Risk Assessment – Large Places of Assembly – ISBN 13:9781 85112 8211
- Fire Risk Assessment – Open Air Event and Venues – ISBN 13:9781 85112 8235
- Guide to Health Safety & Welfare at Pop Concerts & Similar Events – ISBN 0 11 341072 7

Appendix 3

Exemptions

The following activities are not regarded as Regulated Entertainment and are therefore exempt for the purposes of the Act: -

Exhibition of a Film

If the sole or main purpose of the entertainment is to demonstrate any product, advertise any goods or services, or provide information, education or instruction.

If the entertainment consists of or forms part of an exhibit put on show for any purposes of a museum or gallery.

Live Music or the Playing of Recorded Music

If the entertainment is incidental to some other activity which is not in itself within the description of Regulated Entertainment or the provision of entertainment facilities.

Television or Radio Receivers

If the entertainment consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990.

Religious Services and Places of Worship, etc.

If the entertainment is for the purposes of, or for the purposes incidental to, a religious meeting or service or at a place of public religious worship.

Garden Fetes, etc.

If the entertainment is at a garden fete or at a function or event of a similar character, unless the fete, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain (as defined in the Lotteries and Amusements Act 1976 – further details available on request).

Morris Dancing, etc.

If the entertainment is a performance of Morris dancing or any dancing of a similar nature or a performance of un-amplified, live music as an integral part of such a performance, or facilities for enabling persons to take part in such activities.

Vehicles in Motion

If the entertainment is on premises consisting of or forming part of a vehicle and at a time when the vehicle is not permanently or temporarily parked.

The full definitions can be found in the Licensing Act 2003 Schedule 1 Part 2

Small Venues Providing Dancing and Amplified or Un-amplified Music

Where,

- A Premises Licence or Club Premises Certificate authorises the supply of alcohol for consumption on the premises and the provision of music entertainment.
- The relevant premises are used primarily for the consumption of alcohol on the premises, and
- The premises have a capacity of up to 200,

Any conditions relating to the provision of music entertainment imposed on the Licence will be suspended except where they were imposed as being necessary for public safety or the prevention of crime and disorder.

In addition, where,

- A premises Licence or Club Premises Certificate authorises the provision of un-amplified live music.
- The premises have a capacity limit of up to 200,

Then, between the hours of 8 am and midnight, if the premises are being used for no other description of Regulated Entertainment, any conditions will be suspended; unless there is a review of the licence.

Appendix 4

Mandatory conditions that must be attached to licences

Where a Premises Licence authorises the supply of alcohol

1. That no supply of alcohol may be made under the Premises Licence: -
 - a. At a time when no Designated Premises Supervisor has been appointed in respect of the Premises Licence, or
 - b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. That every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

Exhibition of Films

1. Where a Premises Licence or Club Premises Certificate authorises the exhibition of films, the Licence or Certificate must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with these paragraphs.
2. Where the film classification body is specified in the Licence or Certificate, unless paragraph 3(b) below applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where,
 - a. The film classification body is not specified in the Licence or Certificate, or
 - b. The Licensing Authority has notified the holder of the Licence or the Club which holds the Certificate that this paragraph applies to the film in question,Admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.
4. In these paragraphs, 'children' means persons aged under 18, and 'film classification body' means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

Door Supervision

1. Where a Premises Licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the Licence must include a condition that each such individual must be licensed by the Security Industry Authority.

Appendix 5

Delegation of Functions

| Matter to be dealt with | Full Committee | Sub Committee | Officers |
|---|-----------------------|-----------------------------------|------------------------------------|
| Application for personal licence | | If a police objection | If no objection made |
| Application for personal licence with unspent convictions | | All cases | |
| Application for premises licence/club premises certificate | | If a relevant representation made | If no relevant representation made |
| Application for provisional statement | | If a relevant representation made | If no relevant representation made |
| Application to vary premises licence/club premises certificate | | If a police objection | All other cases |
| Request to be removed as designated premises supervisor | | | All cases |
| Application for transfer of premises licence | | If a police objection | All other cases |
| Applications for interim authorities | | If a police objection | All other cases |
| Application to review premises licence/club premises certificate | | All cases | |
| Decision on whether a complaint is irrelevant frivolous vexatious etc | | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority considering the application | | All cases | |
| Determination of a police objection to a temporary event notice | | All cases | |

Appendix 6

Responsible Authorities

A full list of responsible authorities can be found on our website at <http://www.salisbury.gov.uk/business/licences/licensing-act/responsible-authorities.htm>

Other contacts and sources of information:

- The Licensing Authority
Environmental Services
Salisbury District Council
PO Box 2126
Salisbury
SP2 2DJ
- Licensing Officer – Tel: 01722 434234 / email enhlicence@salisbury.gov.uk
- Web site – www.salisbury.gov.uk/business/licences/licensing-act.htm

For other environmental services and health and safety go to www.salisbury.gov.uk/business and follow the links;

- Police
Divisional Licensing Officer
Wiltshire Constabulary
Divisional Police Headquarters
Hampton Park west
Melksham
Wiltshire
SN12 6QQ
- Police Divisional Licensing Officer – Tel: 0845 408 7000
- Chief Fire Officer
Wiltshire Fire and Rescue Service
Ashley Road
Salisbury
SP2 7TN

Chief Fire Officer - Tel: 01722 439300
- Licensing Act 2003 – www.legislation.hmso.gov.uk/acts/acts2003/20030017htm
- Department of Culture, Media and Sport – www.culture.gov.uk

Document Change History

| Date | Nature of Change | Change made by; Job Title | Ref No. |
|-------------|--|------------------------------|---------|
| 09/02/2005 | Correction of licensing officers phone number. | I. S. Officer | 6391 |
| 30/08/2007 | Review of the licensing policy | V. Hall/ J McClay | |
| 05/11/02007 | Amendment following review | V. Hall/ J McClay | |
| | | | |