

**Wiltshire Council  
Licensing Act 2003  
Statement of Licensing Policy  
May 2009**

**Statement of Licensing Policy 13 May 2009**

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**The Licensing Team  
Public Protection Service  
Wiltshire Council**

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## **1.0 Introduction**

- 1.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 ("the Act") and the Department of Culture, Media and Sport (DCMS) Guidance issued under sec.182 of the Act.
- 1.2 The policy takes effect from 13 May 2009.
- 1.3 Licensing is about the appropriate control of licensed premises, qualifying clubs and temporary events. The various permissions that could then result in a hearing are Premises Licences, Club Premises Certificates and where the Police object Personal Licences and Temporary Event Notices. It also covers the people who manage these 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
- 1.4 The policy relates to all licensable activities identified as falling within the provisions of the Act, and within the area of Wiltshire Council ("the Licensing Authority"), namely:
  - The retail sale of alcohol
  - The supply of alcohol to club members
  - The supply of hot food and / or hot drink from any premises including food stalls between 2300 and 0500 hours
- 1.5 The provision of 'regulated entertainment' to the public, to club members, or with a view to profit, specifically including:
  - A performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - Boxing or wrestling entertainment
  - A performance of live music
  - Any playing of recorded music
  - A performance of dance
  - Provision of facilities for making music
  - Provision of facilities for dancing.

- 1.6 The policy statement remains in existence for a period of 3 years during which it is kept under review and revised as appropriate. Any major changes are preceded by public consultation.
- 1.7 The policy must be published before the Authority carries out any function in respect of individual applications made under the terms of the Act.
- 1.8 This policy does not specify or imply that any particular control measure is necessary for any premises or class of premises.
- 1.9 The Licensing Authority will only set conditions at a hearing, following a representation being made in respect of an application or a request to review an existing licence.
- 1.10 Each case will be considered on its' individual merits at a hearing.
- 1.11 The Licensing Authority cannot require that any matters be placed in the Operating Schedule for any application. It is for applicants to carefully consider the effect of their proposal on the four licensing objectives, including the hours of operation and activities and then decide what control measures, if any, they wish to specify in the Operating Schedule.
- 1.12 Responsible Authorities are encouraged to work with potential applicants to help them complete their applications. This may help applicants deal with any concerns of the Responsible Authorities, who may make a representation that could result in a hearing. This is particularly important where the application is of a complex nature or the likely attendance at the premises will exceed 500 persons at any one time. After receiving advice from the Responsible Authorities and others, it is for the applicant to consider what they wish to include in their Operating Schedule. They must be aware, however, that where the advice of the Responsible Authorities is not incorporated in the Operating Schedule there is likely to be a greater risk of a representation being made once the application has been submitted.
- 1.13 Responsible Authorities are expected to examine each application to identify whether the proposals are likely to have a significant adverse effect on any of the licensing objectives. If this is the case, they should work with the applicant so that a revised application can be submitted or, where this is not possible, make a formal representation that would trigger a hearing. The Licensing Authority would then have the opportunity, if necessary, to refuse the application, curtail activities and hours of operation, or apply conditions.
- 1.14 In stating its policy in this document, the Licensing Authority stresses that all of the ensuing sections are subject to the general provision that the Authority can only make decisions on the merits of applications where its discretion has been engaged. The term "its discretion has been engaged" means that a relevant representation has been received in relation to the application. Where Responsible Authorities and Interested Parties do not raise any relevant representations about

the application, the Licensing Authority must grant the licence or certificate, subject only to conditions that are consistent with the Operating Schedule and any mandatory conditions prescribed in the Act. The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing, of the necessity to impose conditions due to the relevant representations raised. It may then only impose conditions as are necessary to promote the licensing objectives arising out of the consideration of the relevant representations.

## **2.0 Wiltshire Council Area**

2.1 Wiltshire is a predominantly rural county in the south-west of England. Covering 325534 hectares, it has a population of 433,000, nearly all of whom live in towns or villages with fewer than 5,000 people. Bigger concentrations of population can be found in the cathedral city of Salisbury, the county town of Trowbridge, and Wiltshire's many market towns. The Armed Forces have a significant presence particularly in the south of the County.

## **3.0 Licensing Objectives**

3.1 The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting four licensing objectives, each licensing objective being of equal importance.

These are:

- The Prevention of Crime and Disorder
- The Promotion of Public Safety
- The Prevention of Public Nuisance and,
- The Protection of Children from Harm.

It is recognised that licensable activities are important to the local economy as well as helping to satisfy cultural and leisure aspirations. The Licensing Authority will, therefore, try and work together with all interested parties, statutory agencies and licensed businesses to ensure a mutual co-existence. When its discretion has been engaged either at a hearing of an application, or a review of a Premises Licence, the Licensing Authority will only grant a licence when it is satisfied that there will be no detriment to the licensing objectives in relation to the matters brought to its attention.

3.2 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. Whilst it is not the intention to give details of specific control measures in this policy references will be made to sources of control measures and operational schedule statements.

3.3 Where there are no relevant representations, 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 steps as are necessary to promote the licensing objectives. In considering the application, the Licensing Authority will have regard to the matters set out below. In order to reduce the risk of relevant representations and the cost and delay of a hearing, applicants are strongly recommended to consider the following matters and incorporate them as necessary into their Operating Schedule.

3.4 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 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.

### 3.5 **Prevention of Crime and Disorder**

#### 3.6 Examples of potential concerns

While not an exhaustive list, the Licensing Authority recognises that amongst other things some of the following, for certain premises, may be of concern in relation to this licensing objective:

- Violent behaviour
- Intimidation
- Antisocial behaviour in general
- The effects of persons queuing or gathering outside premises. This is particularly relevant to premises where entry is restricted or managed, around takeaways and mobile food vendors, as well as where customers go outside to The effects of persons queuing or gathering outside premises. This is smoke or drink.
- The effects of cut price drinks promotions and fixed price drinking sessions
- The use of and dealing with illegal drugs
- The underage purchase and consumption of alcohol

#### 3.7 Expectations

As a matter of good practice the Licensing Authority would suggest that before the application is made:

- Applicants should carefully consider how they intend to promote the Crime & Disorder objective in their Operating Schedule
- Where applicants consider that the crime and disorder objective could be compromised by their intended activities, they are encouraged to contact the Police as the most relevant Responsible Authority for guidance. Other organisations such as Wiltshire Council's Community Safety Partnership may also be able to offer advice. Contact details for these Authorities/Groups are available from the Licensing Authority.

- 3.8 When considering relevant matters at a hearing the Licensing Authority will seek to achieve by way of conditions or restrictions, that the licensing objective is not compromised, while the premises are operating and more specifically:
- There should be no increase in the levels of crime and disorder when the premises are operating.
- 3.9 Neither the Licensing Authority nor the Responsible Authorities can require any matters to be placed in the Operating Schedule of any application. However, responsible authorities and interested parties can make a representation if they feel that the proposal compromises one or more of the licensing objectives. Each application that results in a hearing will be determined on its merits.
- 3.10 **Public Safety**
- 3.11 Examples of potential concerns  
While not an exhaustive list, the Licensing Authority recognises that amongst other things some of the following for certain premises may be of concern in relation to this licensing objective:-
- Excessive numbers of people on the premises
  - Consumption of alcohol and other activities
  - Seating and premises layout
  - Use of special effects such as lasers, smoke machines, foam machines and pyrotechnics
  - Customer profile (for instance age or mobility)
  - Evacuation of the premises in the event of an emergency
  - The care of people who may have consumed too much alcohol or who are affected by the use of illegal substances.
- 3.12 Expectations  
As a matter of good practice the Licensing Authority would suggest that before the application is made:
- Applicants 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.
- 3.13 When considering relevant matters at a hearing the Licensing Authority will seek to achieve by way of conditions or restrictions, that the licensing objective is not compromised while the premises are operating, and more specifically:
- Suitable measures should be in place to reduce the risks to persons frequenting the premises, identified by the carrying out and implementation of appropriate risk assessments.



- The safety of the public and performers who may have impaired mobility or disabilities, is not compromised.
- Staff are adequately equipped to deal with emergencies.
- That all persons, including staff and performers, present in the venue or, at the event, can safely evacuate in the case of emergency and that adequate access arrangement exist to permit the attendance of emergency vehicles if required.

3.14 Neither the Licensing Authority nor the Responsible Authorities can require any matters to be placed in the Operating Schedule of any application. However, responsible authorities and interested parties can make a representation if they feel that the proposal compromises one or more of the licensing objectives. Each application that results in a hearing will be determined on its merits.

### 3.15 **Prevention of Public Nuisance**

#### 3.16 Examples of potential concerns

While not an exhaustive list, the Licensing Authority recognises that amongst other things some of the following for certain premises maybe of concern in relation to this licensing objective:

- Noise from customers
- Noise and vibration from activities and equipment at the premises, including music, fireworks, special effects and transport
- The use of outdoor areas such as gardens, car parks and designated smoking areas
- Anti social behaviour in general
- The effects of persons queuing or gathering outside premises. This is particularly relevant to premises where entry is restricted or managed, around takeaways and mobile food vendors, as well as where customers go outside to smoke or drink.
- Customers queuing at or leaving premises
- Parking on, or in the vicinity, of the premises (this does not include any issues of availability of parking for residents)
- Light pollution, such as from security lighting, signage and illumination of outdoor areas
- Litter, including smoking related litter
- Fumes and odours from, for instance cooking
- Fly posting and other illegal signs and advertising

#### 3.17 Expectations

As a matter of good practice the Licensing Authority would suggest that before the application is made:

- Applicants carefully consider how they intend to promote the Prevention of Public Nuisance objective in their Operating Schedule.
- Where applicants consider that the Prevention of Public Nuisance objective could be compromised by their intended activities, they are encouraged to contact the Wiltshire Council's Environmental Protection Team and in relation to

anti-social behaviour the Police as the most relevant Responsible Authorities for guidance. Contact details for Responsible Authorities are available from the Licensing Authority.

3.18 When considering relevant matters at a hearing the Licensing Authority will seek to achieve by way of conditions or restrictions, that the licensing objective is not compromised while the premises are operating, and more specifically:

- Residents should not be prevented from sleeping between 2300 and 0700 other than on a very infrequent basis. An extension of this period may be appropriate depending on local circumstances
- Residents should generally be able to peacefully enjoy their property
- Additional litter from, or in the vicinity, of the premises should not cumulatively cause public nuisance
- Noxious fumes, noise, or light arising from security devices, flood lighting, advertising or any special effect lighting should not affect occupants of nearby premises or land

3.19 Neither the Licensing Authority nor the Responsible Authorities can require any matters to be placed in the Operating Schedule of any application. However, responsible authorities and interested parties can make a representation if they feel that the proposal compromises one or more of the licensing objectives. Each application that results in a hearing will be determined on its merits.

### 3.20 **Protection of Children from Harm**

#### 3.21 Examples of potential concerns

While not an exhaustive list, the Licensing Authority recognises that amongst other things, some of the following for certain premises may be of concern in relation to this licensing objective:-

- Children gaining access to alcohol other than where the law permits
- Exposing children to activities of an adult or sexual, nature.
- Premises which have a strong element of gambling
- The location of any cigarette vending machines within the premises
- Night clubs and discos where children and people over the age of 18 are permitted to attend at the same time, other than in the case of family aimed entertainment
- Children gaining access to premises contrary to any age restrictions.
- Age restricted films

#### 3.22 Expectations

As a matter of good practice the Licensing Authority would suggest that before the application is made:

- Applicants carefully consider how they intend to promote the Protection of Children from Harm objective in their Operating Schedule.
- Where Applicants consider that the protection of children from harm could be compromised by their intended activities, they are encouraged to contact the

Wiltshire Police, Wiltshire Council's Trading Standards Section and Wiltshire Council's Childrens and Families Department as the most relevant Responsible Authorities for guidance. Contact details for Responsible Authorities are available from the Licensing Authority.

When considering relevant matters at a hearing the Licensing Authority will seek to achieve by way of conditions or restrictions, that the licensing objective is not compromised while the premises are operating, and more specifically:

- Children should generally not be permitted on premises with a strong element of gambling, but not, for example where there are a small number of low cash prize (not jackpot) machines.
- Where there is a risk of children purchasing alcohol illegally, or having it bought for them, that robust measures are put in place to prevent it happening.
- Children should not be permitted on premises where adult entertainment or services are being provided. Note that the sale of alcohol is not considered to fall within the category of adult services in relation to this paragraph.
- Where it is necessary to restrict the access of children to premises, a robust age checking systems are put in place.

3.23 Neither the Licensing Authority nor the Responsible Authorities can require any matters to be placed in the Operating Schedule of any application. However, Responsible Authorities and interested parties can make a representation if they feel that the proposal compromises one or more of the licensing objectives. Each application that results in a hearing will be determined on its merits.

#### **4.0 The Licensing Function**

4.1 The Licensing Authority recognises that the licensing function is not the only means of securing the delivery of the above objectives. While the licensing function, therefore, should not be seen as a panacea for solving all problems within the community, the Licensing Authority nonetheless regards it as an important route by which such problems can be addressed. The Licensing Authority, therefore, continues to work in partnership with other areas of the Wiltshire Council, relevant agencies including the Police, the Fire Authority, local businesses and local people towards the promotion of the objectives as outlined.

4.2 In undertaking its licensing function, the Licensing Authority must have regard to the following legislation:

- The Licensing Act 2003
- Section 17 Crime and Disorder Act 1998
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000.

4.3 The Licensing Authority also has regard to other relevant legislation, strategies, policies and guidance in its decision-making, as outlined below.

- 4.4 In addition to the Licensing Act 2003 there is other legislation that can be used to control licensed premises. These include:
- Health & Safety enforced by Local Authorities and The Health and Safety Executive
  - Fire Safety enforced by Fire & Rescue Services
  - Nuisance enforced by Local Authorities
- It is recognised that where there are other specific controls that achieve the same standard, that these should be used instead of The Licensing Act 2003
- 4.5 The aim of the licensing process is to regulate licensable activities in order to promote the licensing objectives. It is the Licensing Authority's wish to facilitate well run and managed premises, with licence holders displaying sensitivity to the impact of the premises on local residents
- 4.6 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.
- 4.7 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.
- 4.8 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.
- 4.9 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.
- 4.10 The Licensing Authority notes that the legislation does not provide for standard closing times. There is no presumption within the Act for longer opening hours over

objections from local residents and businesses located in the vicinity of licensed premises.

Those premises that provide entertainment and particularly those that supply entertainment in addition to the retail of alcohol, are encouraged to provide and promote a range of entertainment during their operating hours. This may include, live music, dancing and theatre for the wider cultural benefit of the community.

- 4.11 The Licensing Authority encourages applicants to train staff and achieve relevant qualifications, such as the National Certificate for Personal Licence Holders, National Certificate for Entertainment Licensees; the Drugs Awareness Certificate; the Barperson's National Certificate, and the Professional Barperson's Qualification.

## **5.0 Consultation**

- 5.1 Before adopting this policy statement the Licensing Authority has consulted with the following:

- Wiltshire Constabulary
- Wiltshire Fire and Rescue Service
- The Wiltshire District Councils environmental health, health and safety and planning departments as current responsible authorities.
- British Waterways Board
- The Environment Agency
- The Maritime and Coastguard Agency
- Town and Parish Councils in the Wiltshire Council area
- Wessex Association of Chamber of Commerce
- Salisbury and District Chamber of Commerce
- Pub Watch schemes within the area
- The British Institute of Innkeeping
- British Beer and Pub Association
- Federation of Small Businesses
- Federation of Convenience Stores Ltd
- The Association of Licences Multiple Retailers
- Community First – Village Hall Adviser
- Wiltshire County Council Social Services
- Wiltshire County Council – Head of Safe Care and Child Protection
- Wiltshire area Child Protection Committee
- Wiltshire County Council Community Safety team
- Wiltshire County Council Trading Standards Department
- Wiltshire County Council Emergency Planning Department
- Wiltshire County Council Passenger Transport
- Health and Safety Executive (Bristol Office)
- Great Western Ambulance Service NHS Trust
- Rural Arts Wiltshire
- Arts Council of England
- Independent Street Arts Network (ISAN)
- The Musicians Union (South West Region)

- Jazz Services Ltd
- Equity
- CAMRA (Campaign for Real Ale)
- ACAD Bath (Advice on Alcohol)
- Wiltshire Association of Farmers' Markets
- Public Events and Licensing Group West and North Wiltshire, Salisbury and Kennet.
- Poppleston Allen, Licensing Solicitors

## **6.0 Conditions**

- 6.1 Licensing relates to the control of licensed premises, and other events within the terms of the Act and to any conditions which may be attached to licences, and the various other permissions which focus on matters falling within the control of individual licence-holders.
- 6.2 Subject to the general provision above at section 1.9, conditions 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.
- 6.3 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”.
- 6.4 The Licensing Authority may impose conditions following a hearing. These conditions will 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.

## **7.0 Cumulative Impact**

- 7.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Licensing Authority can take into account.
- 7.2 The Licensing Authority may receive relevant representations from either a “Responsible Authority” or “an Interested Party”, suggesting that the cumulative impact of new licences is leading to an area saturated with premises of a particular type, thus making the area a focal point and thereby creating problems of disorder and nuisance over and above the impact of the individual premises. In such cases, the issue of cumulative impact is taken into account when considering the individual merits of any application. The onus is on any persons, or organisation, making such relevant representations to prove the assertion that the addition of the premises concerned would cause the cumulative impact claimed.

- 7.3 The Licensing Authority is not at this time adopting any special policy as to cumulative impact. In addition, the Licensing Authority does not operate a quota system of any kind, which would have the effect of pre-determining any application. Nor does it seek to impose general limitations on trading hours in particular areas. Regard is given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, clubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard shall be given to those differences and the impact they are likely to have on the promotion of the licensing objectives.
- 7.4 The Licensing Authority aims to achieve a reduction in crime and disorder throughout the Council's area consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Where relevant representations are made in relation to cumulative impact the Licensing Authority may look more favourably upon applications where the applicant has addressed the issue of preventing crime and disorder in a positive way.
- 7.5 In determining whether to adopt a 'special' policy for a particular area the Licensing Authority may, among other things:
- Gather evidence of relevant concerns from a Responsible Authority or local residents about nuisance and disorder
  - Identify the area in which problems are arising, and the boundaries of that area
  - Make an assessment of the cause(s)
  - Consult with those mentioned in section 5(3) of the Licensing Act 2003, as reproduced in section 5 of this policy
  - Review any such special policy regularly
- 7.6 Where there is evidence that a particular area is already suffering adverse effects arising from the concentration of late night premises or, that residential areas are under stress, this is taken into account in determining any further applications for premises within the area identified. In such circumstances the Licensing Authority may take into account:
- The character of the surrounding area
  - The impact of the licence on the surrounding area, both individually and cumulatively with existing licences
  - The nature and character of the proposed operation

## **8.0 Licensing Hours**

- 8.1 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 2300 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.

- 8.2 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.
- 8.3 The terminal hours are normally approved where the applicant can show that the proposal would not adversely affect the licensing objectives. The Licensing Authority may set an earlier terminal hour if an application comes before a hearing or is called for review 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.
- 8.4 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.
- 8.5 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.
- 8.6 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.

## **9.0 Enforcement**

- 9.1 The Licensing Authority has agreed and published protocols with all enforcing authorities including the Police. 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.
- 9.2 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.
- 9.3 A graduated response is affected 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.



- 9.4 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.
- 9.5 The Licensing Authority employs Licensing Enforcement Officers to investigate complaints against licensed premises, allegations of unlicensed activities, and the breach of licence conditions.
- 9.6 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');- Enforcement protocol agreed with Wiltshire Constabulary (published on the Council's Website: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk) ).

### **10.0 Integrating Strategies and the Avoidance of Duplication**

- 10.1 By consulting widely prior to the publication of this policy statement, the Licensing Authority has endeavoured to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.
- 10.2 The Licensing Authority's Licensing Committee considers wider issues which may need to be given due consideration and is willing to consider reports on:
- The Cultural Strategy for the area
  - The Tourism Strategy for the area
  - The Employment situation in the area and the need for new investment and employment, where appropriate.
- 10.3 The Licensing Authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

### **11.0 Other Legislation**

- 11.1 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.
- 11.2 In reaching a decision on whether, or not, to grant a licence, following a hearing or call for review, the Licensing Authority may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 11.3 The grant of a licence does not imply the approval of other legislative requirements.

## **12.0 The Licensing Process**

- 12.1 A *Licensing Committee*, *Sub-Committee*, or *Licensing Officers* acting under delegated authority, may carry out the powers of the Licensing Authority under the Act.
- 12.2 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.
- 12.3 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.
- 12.4 A *sub-committee* of the Licensing Authority deals with applications and the review of a licence, where there are relevant representations.
- 12.5 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 relevant representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration is balanced against the wider benefits to the community. Any conditions imposed on licences do not seek to discourage such entertainment, but are aimed solely at promoting the licensing objectives.
- 12.6 The Licensing Authority acknowledges the guidance received from the Government advising that the views of vocal minorities should not be allowed to predominate over the general interest of the community.

## **13.0 Administration, Exercise and Delegation**

- 13.1 Applications are dealt with in accordance with a schedule of delegated authority. Such a schedule needs to be approved by a specific resolution of full council and may also be subject to change in the future. A suggested schedule is contained in XXXXXX. (take out last sentence??)
- 13.2 Personal licence applications are granted where the respective applicants have a qualification approved by the Government and they do not have criminal convictions for relevant offences as set out in the Licensing Act 2003 or where they do have convictions for relevant offences, no objection has been received from the Police.
- 13.3 Where an applicant for a personal licence has a current conviction for a relevant offence, the Police can object to the application, and a hearing is held at which the applicant has the opportunity to appear before a licensing *Sub-Committee*. The Licensing Authority only grants a licence following a hearing where it is satisfied that the grant of the application does not undermine the crime and disorder licensing objective.

13.4 In relation to premises licences, which permit the sale of alcohol by retail, a Designated Premises Supervisor must be specified for the premises. The Designated Premises Supervisor must also be a personal licence holder. Where the Police recommend that a Designated Premises Supervisor be removed, a hearing is held in the same way as detailed at 12.3.

#### **14.0 Pub Watch**

14.1 The Licensing Authority recognises the value of 'Pub Watch' schemes and intends where appropriate, to play a supportive role in such schemes, 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 Pub Watch. As well as traditional pubs and entertainment venues, this includes premises who are licensed solely for the sale of alcohol for consumption off the premises.

#### **15.0 Alcohol Pricing**

15.1 Premises are discouraged from offering to supply alcohol at discounted prices where this would lead to excessive consumption of alcohol. This discounting could include 'Happy Hours' 'Buy One Get One Free' and 'All You Can Drink' promotions and similar offers.

#### **16.0 Controls Away From Premises**

16.1 The Licensing Authority recognises that both within and outside the licensing regime there are a number of mechanisms for addressing issues concerning unruly behaviour, which occurs away from licensed premises. These include:

- Planning controls
- Ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others
- Powers to designate parts of the Council's area as places where alcohol may not be consumed publicly
- Confiscation of alcohol from adults and children in designated areas
- Police enforcement of the law with regard to disorder and anti-social behaviour
- Police powers to close premises for up to 24 hours in cases of disorder or excessive noise
- The power of Police, local businesses or residents to demand a review of the licence
- Enforcement action(s) against those selling alcohol to people whom are already drunk.

16.2 In addition the Licensing Authority recognises that the Crime and Disorder Reduction Partnership also have a role play to further the strategic objectives for crime and disorder reduction within the Council's area.

#### **17.0 Temporary Events Notices**

17.1 Current Guidance issued under the Act, encourages a locally established preferred period of notice. The Authority, after consulting with the Police, suggests that as a

guide, it would be helpful if Temporary Event Notices were submitted at least 28 days before an event.

- 17.2 The law states, however, that 10 clear working days is the minimum possible notice, therefore applications given with less than the prescribed notice will be refused. Notices that give the 10 clear working days notice to the Licensing Authority and the Police, will always be accepted.
- 17.3 Exceptionally, the Police may issue an Objection Notice where they consider the prevention of crime and disorder objective may be undermined. In such circumstances, the Licensing Sub Committee will consider the objection by way of a hearing and confine its consideration to the prevention of crime and disorder objective.

### **18.0 Large Scale Events**

- 18.1 These are events that, because of their size, cannot be carried out with a Temporary Event Notice but need a Premises Licence which may be for a temporary period in order to operate. 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. 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.
- 18.2 The Licensing Authority encourage applicants at an early stage to engage with Responsible Authorities and Wiltshire Council's Public Event and Licensing Group

### **19.0 Other Services of Information and Guidance**

Further guidance can be obtained from the Council's Licensing Team and will be available on the licensing pages of the Council's Website.

## **APPENDIX A – Glossary of Terms**

The following comprises a glossary of terminology used within the statement of licensing policy. Terms defined at length within the Licensing Act 2003 have generally not been included.

### **Alcohol Harm Reduction Strategy**

A strategy issued by the Government aimed at identifying initiatives and priorities, which may help in the promotion of the licensing objectives.

### **Club Premises Certificate**

A certificate authorising the use of premises by a qualifying club for one or more club activities.

### **Crime and Disorder Reduction Partnership**

A partnership comprising relevant sections of the Council, the Police and other interested parties, established to develop a strategy for the reduction of crime and disorder in the area.

### **Cumulative Impact**

The potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

### **Designated Premises Supervisor**

The individual specified in the premises licence as the premises supervisor.

### **Interested Parties**

The individuals or bodies who are entitled to make relevant representations to licensing authorities in relation to applications for the grant, variation or review of premises licences. These include individuals or businesses in the vicinity of the premises in question, or bodies representing such individuals or businesses.

### **LACORS/TSI Code of Best Practice on Test Purchasing**

The Code of Best Practice on Test Purchasing issued by the Local Authorities Coordinators of Regulatory Services (LACORS) and the Trading Standards Institute (TSI). The Code gives guidance as to the test purchasing of alcohol by trading standards officers.

### **Licensing Committee**

The committee established by the licensing authority to discharge the licensing functions of the authority.

### **Licensing Hours**

The hours during which authorised licensable activities take place.

### **Operating Schedule**

A prescribed document which must accompany any application for a premises licence or a club premises certificate, setting out the nature of the proposed licensable activities, the

proposed trading hours, and the steps envisaged promoting the licensing objectives, amongst other things.

### **Personal Licence**

A licence which authorises an individual to supply or authorise the supply of alcohol in accordance with the premises licence.

### **Premises Licence**

A licence authorising premises to be used for one or more licensable activities.

### **Proportionality**

The principle under which, in the licensing context, only necessary conditions can be imposed on licensable activities, taking specific account of the size, style, and characteristics of such activities taking place at the premises concerned.

### **Pub Watch Scheme**

An agreement reached by a group of licence-holders in a particular locality to counter, on a collective basis, those who threaten damage, disorder, and violence or use or deal in drugs in their premises. Normally, action consists of agreeing not to admit or serve individuals who cause such problems.

### **Qualification approved by DCMS**

A licensing qualification accredited by the Secretary of State.

### **Relevant Offence**

Any offence listed in Schedule 4 of the Licensing Act 2003.

### **Relevant Representation**

A representation regarding the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives.

### **Responsible Authorities**

The public bodies that must be fully notified of applications and that are entitled to make relevant representations to the licensing authority in relation to the grant, variation or review of a premises licence. These include as at 1 April 2009 :

- the chief officer of police
- the local fire and rescue authority
- the local enforcement agency for the Health and Safety at Work etc Act 1974
- the local authority with responsibility for environmental health
- the local planning authority
- a body that represents those who are responsible for or interested in matters relating to the protection of children from harm
- the local weights and measures authority (trading standards)
- any licensing authority, other than the relevant licensing authority, in whose area part of the premises are situated.

**Safer Clubbing**

Guidance issued by the Home Office giving advice to nightclub owners, dance event promoters and local authority licensing departments on how to ensure the health and safety of persons attending dance events.

**Special Policy**

A policy setting up a rebuttable presumption that applications for new premises licences or club premises certificates will normally be refused whenever relevant representations are received as to the cumulative impact on the licensing objectives.

**Terminal Hours**

The times at which authorised licensable activities should cease.

**Zoning**

The adoption of fixed terminal hours in designated areas.