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Bath & North East  
Somerset Council

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# **Statement of Licensing Policy**

**JANUARY 2020**

# STATEMENT OF LICENSING POLICY

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## 1 Introduction

- 1.1 Bath & North East Somerset Council (the Council), is the Licensing Authority for Bath and North East Somerset under the Licensing Act 2003 (the Act). This means the Council is responsible for granting Premises Licences, Personal Licences, and Club Premises Certificates, in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. It is also responsible for receiving Temporary Event Notices.
- 1.2 The Licensing Authority aims to facilitate the development of a healthier economy in Bath and North East Somerset that feels both safe and offers diverse cultural activities to enable a broad age range of people to enjoy themselves whilst at the same time improving the quality of life of residents and increasing the attractiveness of the area to visitors.
- 1.3 In partnership with other agencies and interested parties, the Council as the Licensing Authority, seeks to develop the area with a view to increasing the number of establishments, including coffee shops, restaurants and other similar establishments, which are open and available to the public in the evening.
- 1.4 It is hoped that realisation of this goal will reduce fear of crime, including alcohol related crime and anti-social behaviour, and consequently encourage greater use of facilities throughout the district and in the evening by people of all ages, all income groups and all social groups.
- 1.5 The significant role the city centre plays in Bath's night time economy, has been recognised by the prestigious Purple Flag Award.

Bath & North East Somerset in collaboration with the Business Community through the Bath Business Improvement District was the first area in the South West to be awarded a Purple Flag in January 2010. The award was granted by the Association of Town and City Management and is the new "gold standard" that recognises safer and more appealing town and city centres at night. The Purple Flag status also provides external recognition for cities that offer a great diversity of entertainment and hospitality to a wide range of age groups. This achievement highlights the effective multi-agency work in place to enhance the night time economy of Bath, and therefore the need to maintain these standards through sustained partnership working in the future. In 2017 Bath won a seventh Purple Flag for its night time economy.

- 1.6 The Council has worked in partnership to bring to Bath a modern shopping destination at Southgate, with classic Georgian-style open streets, and public spaces. Southgate Bath has a wide variety of retail stores, eating and entertainment establishments and residential properties. A key element of the City's Enterprise zone will be a mixed development of shops, restaurants and

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homes in Bath Quays which will be complete by 2021.

- 1.7 The Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' that sets out the principles the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and having regard to the Secretary of State's Guidance (the Guidance) issued under s.182 Licensing Act 2003 (the Act).
- 1.8 Licensing is about regulating the use of premises, including qualifying clubs, for licensable activities and temporary events within the terms of the Act.
- 1.9 Any conditions which are attached to the various authorisations will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations on licensed premises. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises.

## **2 Purpose**

- 2.1 The primary purpose of this policy is to assist and inform those involved in the decision making process and those who may be affected by such decisions.
  1. This policy will provide the decision makers with parameters under which to make their decisions.
  2. This policy will inform applicants of the parameters under which the Licensing Authority will make decisions, and therefore how licensed premises are likely to be able to operate within Bath and North East Somerset. Each case will however, be determined on an individual basis.
  3. This policy will inform residents and businesses of the parameters under which the Licensing Authority will make licence decisions, and therefore how their needs will be addressed.
  4. This policy will provide the courts with the basis upon which decisions were reached.
  5. On occasion where particular circumstances justify such a decision, the Licensing Authority may decide to depart from its Statement of Licensing Policy when considering an application. The Licensing Authority will on such occasion give reasons for this departure.

The Authority is mindful that when hearing an appeal against any decision

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made by the Authority, the Magistrates' Court will not take into account anything in this policy that is unlawful, disproportionate or beyond the power of the Licensing Act 2003 (*ultra vires*).

6. This policy will be regularly reviewed by the Licensing Authority in accordance with the requirements of the Act (at least every 5 years) or as the Authority deems necessary. It was last reviewed in 2014 and published in January 2015.
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- 2.2 This policy aims to set out the Authority's expectation that all persons involved in the licensing process will act with a view to promoting the licensing objectives and all premises whether licensed permanently or on a temporary basis, will operate responsibly and in full compliance of their authorisation.
  - 2.3 The Authority is also keen to encourage and support where appropriate, any voluntary initiatives premises may adopt to help reduce alcohol harm within our communities particularly as irresponsible consumption of alcohol is a key factor in fueling late night anti-social behavior, crime and disorder. Such initiatives may include the removal of cheap, super-strength beers, ciders and lagers from the sale or, the display of alcohol in a manner that will not unduly encourage people to drink irresponsibly. The Authority acknowledges that whilst the majority of people drink responsibly, the "drink until you're drunk" and "binge drinking" culture adopted by a minority is having a detrimental effect on many vulnerable members of our communities and their families. It also has a detrimental impact on residential communities.
  - 2.4 When considering any relevant representations to an application for a licence or in respect of a review of a licence, where there is a clear causal link between sales promotions or price discounting and levels of crime and disorder or public nuisance in or near the premises, the Licensing Authority may consider imposing conditions prohibiting irresponsible sales promotions at the relevant premises, but not so as to duplicate the provisions of the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
  - 2.5 It is expected that when promoting low priced alcohol, all premises will be considerate of the effect such promotions are having on young and vulnerable persons within the population. Premises are reminded that the mandatory conditions relating to irresponsible drinks promotions must be adhered to. Premises are expected to carefully risk assess such promotions to ensure they do not encourage individuals to drink alcohol excessively or rapidly.
  - 2.6 The Authority encourages all establishments who sell alcohol to be more vigilant in respect of persons who are purchasing, or maybe attempting to purchase, alcohol on behalf of persons who are already drunk, or who are under age.

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## 3 Licensing Objectives

- 3.1 Section 4 of the Act provides that it is the duty of all Licensing Authorities to carry out their various licensing functions with a view to promoting the four licensing objectives laid down in the Act. The licensing objectives are:
- **The prevention of crime and disorder;**
  - **Public safety;**
  - **The prevention of public nuisance;**
  - **The protection of children from harm.**
- 3.2 Each objective is of equal importance.
- 3.3 These four licensing objectives are to be of paramount consideration at all times. There are no other licensing objectives.
- 3.4 In the event the Government introduces any further licensing objectives, the Authority will amend this policy accordingly.
- 3.5 When considering applications/representations the Licensing Authority will have regard to these licensing objectives. Where appropriate the Licensing Authority will make exceptions to its own policies and give reasons for doing so.
- 3.6 In accordance with the Secretary of State's Guidance, the Licensing Authority acting as a Responsible Authority will not act on behalf of those who are capable of making representations or calling for a review in their own right. Therefore, inferences should not be drawn on such occasion when the Licensing Authority remains silent in respect of new, variation or review applications. The Licensing Team will use its status as a Responsible Authority on a case by case basis, when other Responsible Authorities have chosen not to act and a view is taken that there is a need to do so.
- 3.7 The Licensing Authority will ensure there is a clear distinction between those officers submitting a representation or review application, and the officers responsible for the administration of the application or review process.
- 3.8 The Licensing Authority recognises that excessive alcohol consumption leads to poor health which, in turn, places burdens on local health services. The Licensing Authority supports initiatives to reduce the misuse of alcohol for example, supporting Trading Standards colleagues to carry out under-age sales operations. The negative effects relating to alcohol misuse continue to be more widely addressed within Bath & North East Somerset's Alcohol Harm Reduction Strategy and subsequent revisions.

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## 4 Licensable Activities

- 4.1 The term “Licensable Activities” is defined by the Act. Licensable Activities are:
1. the sale by retail of alcohol;
  2. the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  3. the provision of regulated entertainment; and
  4. the provision of late night refreshment (i.e. the provision of hot food and/or hot drink between 23:00 hours and 05:00 hours).

## 5 Types of Authorisations

- 5.1 This policy will be taken into account by the Licensing Authority when carrying out its licensing functions under the Act in relation to any:
- Premises Licence
  - Club Premises Certificate
  - Personal Licence
  - Temporary Event Notice (TEN)

## 6 General Principles

### 6.1 Decisions

Many minor or routine matters may be determined by the Licensing Officer; other decisions will be referred to the Licensing Committee for determination. These decisions are made in accordance with the table of delegated functions found at the end of this Policy.

- 6.2 The Licensing Committee is not a court of law and may seem informal in comparison with such proceedings. For example, the rules of evidence do not normally apply and evidence is not taken on oath. Nevertheless, in determining licensing matters the Committee will follow judicial principles to ensure a fair and orderly hearing is given to each application/representation.

- 6.3 Each case will be considered **on its own merits** and nothing in this Policy shall undermine this principle.

- 6.4 The review of a Premises Licence or a Club Premises Certificate can be requested by a Responsible Authority and any other person subject to

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conditions as indicated in paragraph 41 (Reviews).

- 6.5 Applicants for Premises Licences and Club Premises Certificates will be expected to set out how they intend to promote the Licensing objectives and what measures they intend to employ to ensure compliance with them.
- 6.6 In order to avoid duplication with other statutory regimes the Licensing Authority will seek to use the most appropriate method of dealing with a particular issue. Subject to the provisions of paragraph 19 (Conditions) the only conditions which should be imposed on a Premises Licence or Club Premises Certificate are those which are appropriate, proportionate and reasonable for the promotion of the licensing objectives.
- 6.7 Accordingly if other controls are available because the law already places certain statutory responsibilities on an employer or operator of premises (such as in relation to Health and Safety) it cannot be necessary to impose the same or similar duties on the premises licence holder or club. For example, conditions relating to noise nuisance would not normally be necessary where the provisions of byelaws or of other legislation such as the Environmental Protection Act 1990 protect those living in the vicinity of the premises in question. Where adequate protection is not available conditions subject to the provisions of paragraph 19 may be considered appropriate.
- 6.8 Applicants may suggest, and are encouraged to suggest, appropriate conditions in their operating schedules.
- 6.9 Where the Act provides for mandatory conditions to be included in a Premises Licence the Licensing Authority has a duty to include those conditions on the licence.
- 6.10 Subject to paragraph 39 (Relevant Representations) anyone wishing to make representations in respect of an application will be required to relate their objection to one or more of the licensing objectives before the Licensing Authority will be able to consider it.
- 6.11 There is a statutory presumption that an application will be granted unless relevant representations are received.
- 6.12 Where appropriate and necessary, the Licensing Authority will seek advice about safeguarding issues from relevant Council officers to ensure that any safeguarding issues are effectively addressed.

## **7 Consultees**

- 7.1 Before determining this policy the Licensing Authority has consulted with

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various stakeholders including, but not limited to:

1. All Responsible Authorities;
2. Representatives of local holders of Premises Licences and Club Premises Certificates;
3. Representatives of businesses and residents of the area;
4. All Ward Councillors and Town and Parish Councils.

## Legislation, Policies and Strategies

### 8 Legislation

8.1 In undertaking its licensing function under the Act, the Licensing Authority is also bound by other legislation, including:

1. Section 17 of the Crime and Disorder Act 1988;
2. The Human Rights Act 1998, with particular regard being given to Article 6, Article 8 and Article 1 of the first Protocol;
3. The Equalities Act 2010.

8.2 The impact of this policy will be monitored through the completion of an Equality Impact Assessment.

### 9 Relationship with Planning Policies

9.1 The Licensing Authority recognises that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary, for the applicant to ensure that he/she has all the necessary permissions in place to enable them to run the business within the law.

9.2 There will, however, be a clear separation of the Planning and Licensing regimes to avoid duplication and inefficiency. Therefore, any decision made under the Licensing Act will not take into consideration the need for planning permission.

9.3 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process as different considerations will apply.

9.4 In addition, if an application is granted by the Licensing Authority which involves a material change of use or alteration to a building, this would not relieve the applicant of the need to apply for planning permission.

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## **10 Relationship with Building Control**

- 10.1 The Licensing Authority recognises Licensing and Building Control are separate regimes. Where an application is granted by the Licensing Authority which involves a material alteration to a building, this would not relieve the applicant of the need to obtain building control approval.

## **11 Provisional Statements (and the relationship with planning policies and building control)**

- 11.1 Further guidance is given below and in paragraph 24 regarding Provisional Statements generally.
- 11.2 In relation to planning and building control it should be noted that any decision of the Licensing Authority on an application for a provisional statement would not relieve an applicant of the need to obtain any necessary planning permission, listed building consent or building control approval before any development takes place.

## **12 Integrating Strategies**

- 12.1 The Licensing Authority will (where appropriate) integrate national and local strategies which impact on the licensing objectives and encourage vibrant, sustainable communities in line with Bath & North East Somerset's Vision and Priorities.

## **13 Regulated Entertainment**

- 13.1 In its role of implementing Council cultural strategies, the Licensing Authority recognises the need to encourage regulated entertainment such as live music, dance and theatre for the wider cultural benefit of the community.
- 13.2 When considering applications for such activities, and the imposition of conditions on licences, certificates or notices, the Licensing Authority will do what is appropriate and proportionate in the promotion of the licensing objectives.
- 13.3 The Licensing Authority will ensure that only appropriate, proportionate and reasonable licensing conditions are attached to such authorisations.
- 13.4 As a matter of general policy the Council intends to continue to seek Premises Licences from the Licensing Authority for public spaces within the local community, in their own name. This may include village greens, markets, promenades, community halls, parks, Council owned art centres and similar public spaces. However, any external organiser wishing to host an event within

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these public spaces would require the permission of the Council and would need to apply for a premises licence or submit a Temporary Event Notice, according to the proposed activities, timings and the number of persons expected to be in attendance.

- 13.5 Performances of live music have been further encouraged following the Government's partial deregulation of entertainment activities. Amplified live music performed on premises licensed for the sale of alcohol by a premises licence or club premises certificate, or performed at any unlicensed "workplace", is no longer regarded as being "regulated" under the Act, **when** the performance takes place:
- on any day, and at any time between 08:00 and 23:00 hours; and
  - before an audience of no more than 500 people.
- 13.6 The performance of unamplified live music has also been deregulated within these given time limits, although there is no restriction in respect of the size of the audience.
- 13.7 When live music is performed at any licensed premises in accordance with the above criteria, any conditions relating to 'live' music as detailed on the premises licence or club premises certificate, will be suspended. However, should the music have a detrimental effect on the licensing objectives, the Licensing Authority may lift the suspension following the review of the premises licence or club premises certificate and the performance of live music will be treated as though it is a regulated activity, allowing for any existing conditions to be reinstated or new conditions to be added.
- 13.8 The provision of background music, whether live or recorded, will not be regarded as being regulated when it is of a level that does not predominate over other activities.
- 13.9 When entertainment is ancillary to a main event, which in itself is not a licensable activity, the entertainment will not be regulated by the Act. An example would be live or recorded musical accompaniment at a fashion show.

## 14 Cumulative Impact

- 14.1 The concept of Cumulative Impact- relates to the potential impact a significant number of licensed premises concentrated in one area, may have on the promotion of the licensing objectives. Serious problems associated with nuisance, crime and disorder may be prevalent outside, or in the locality of these licensed premises for example when people are leaving premises at peak times, queuing for public transport or congregating outside fast food outlets.

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- 14.2 Cumulative impact was not specifically mentioned in the Licensing Act 2003, however the Guidance to the Act acknowledged that it was “a proper matter for a licensing authority to consider in developing its statement of licensing policy and set out the steps Licensing Authorities were to take when considering whether to adopt a cumulative impact policy.
- 14.3 In 2007, after identifying concerns, and collating robust evidence relating to public nuisance, crime and disorder within a specific geographic area of Bath City Centre, BANES Council introduced, and regularly monitored, its Cumulative Impact Policy.
- 14.4 The Policy created a rebuttable presumption that applications for new premises licences, club premises certificates or variations relating to “on trade” premises situated within the Cumulative Impact Area, would be refused if relevant representations were received.
- 14.5 With effect from 6 April 2018 “Cumulative Impact Assessments” were introduced into the Licensing Act at section 5A, by virtue of s. 141 of the Policing and Crime Act 2017. Licensing Authorities may publish Cumulative Impact Assessments where there is evidence to show that the number or density of licensed premises, or a particular type of premises, is having a cumulative impact and leading to problems that are undermining the licensing objectives.
- 14.6 Section 5A sets out what a licensing authority must do in order to publish a Cumulative Impact Assessment, or where a special policy already exists, the time within which such policies should be reviewed.
- 14.7 Any decision to publish or review a cumulative impact assessment must be evidenced based.

## **15 Cumulative Impact Assessment**

- 15.1 In 2019 the Licensing Authority carried out a Cumulative Impact Assessment and in so doing undertook a review of the Cumulative Impact area map adopted in 2007. Following public consultation the Licensing Authority was of the opinion that there was sufficient evidence to demonstrate that the number of premises licenses and/or club premises certificates in one of more parts of the area is such that it is likely that granting further licences would be inconsistent with the authority’s duty to promote the licensing objectives. A summary of the evidential basis for this opinion is set out in Appendix 1 and the revised Cumulative Impact area map is set out in Appendix 2.
- 15.2 The effect of the Cumulative Impact Assessment is to create a rebuttable presumption that applications for new premises licences, club premises

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certificates or variations relating to “on trade” premises situated within the Cumulative Impact Assessment area, will be refused if relevant representations are received. In this context, ‘on trade’ means the sale of alcohol for consumption on the premises. The Council’s evidence base in relation to the Cumulative Impact Assessment Area does not relate to off-sales of alcohol or late night refreshment. In order to rebut this presumption, applicants must demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.

- 15.3 The Licensing Authority will expect the applicant to address the issues surrounding cumulative impact within their operating schedule. See paragraph 15.10 below for suggested conditions.
- 15.4 This presumption does not relieve Responsible Authorities or any other persons of the need to make a relevant representation. The Licensing Authority may not lawfully consider giving effect to its cumulative impact policy in the absence of relevant representations.
- 15.5 After receiving representations in relation to a new application or a variation of a licence or certificate, the licensing authority will consider whether it would be justified in granting a licence or variation in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics.
- 15.6 The Licensing Authority will consider the individual merits of any application, together with the relevant representations made. Where it considers the application promotes the licensing objectives and would be unlikely to add to the cumulative impact, the Licensing Authority will grant the application.
- 15.7 If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of at least one of the licensing objectives, and that the imposition of conditions would be ineffective in preventing the problems involved.
- 15.8 If there are no representations, the Licensing Authority must grant the application as applied for, in terms consistent with the operating schedule.
- 15.9 Where an application for a review is received by the Licensing Authority, the cumulative impact policy will not be used as a ground for revoking an existing licence or certificate. A review must relate to individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.

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## **Suggested additions to operating schedules**

15.10 If an application for a licence is made for a premises within the defined area of the cumulative impact policy the Licensing Authority will expect the applicant to demonstrate, in their operating schedule, the steps that they will take to prevent problems relating to nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder.

15.11 The measures the Licensing Authority would wish to be included on a premises licence application within the cumulative impact assessment area will depend on the nature and type of the premises. The measures would need to be individual to that premises. Examples are:

1. CCTV at the premises to be properly maintained
2. Security Industry Authority (SIA) door staff
3. Toughened or plastic glass, no bottles
4. Free calls to taxi firms for departing customers at the end of the night
5. Outside areas to be cleared at a reasonable time (time to be stated)
6. Signs to be displayed at each exit to encourage patrons to minimise noise and not to congregate in the street at close
7. To be a member of the local Nightwatch (or any other similar scheme)
8. No open containers of alcohol to leave the premises
9. To supervise entry and exit of the customers from the premises at busy times
10. Facilities for people to dispose of cigarette ends and provisions for reducing noise from people smoking outside the premises
11. A limit on the number of customers permitted on the premises at one time
12. A requirement that the public spaces in the premises should be predominately seated.

This list is not exhaustive, and is only intended to provide a brief description and guide to applicants.

15.12 The Bath Nightwatch scheme is the result of the Bath Business Improvement

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District (BID) team, Bath & North East Somerset Council, Avon and Somerset Police and owners of licensed premises, working together as one co-ordinated stakeholder to promote the four licensing objectives and improve issues of alcohol-associated anti-social behaviour in and around the city centre.

- 15.13 The Licensing Authority will expect all licensed premises within the Cumulative Impact Assessment Area to take a socially responsible approach to selling alcohol and to managing their premises effectively by participating in schemes like 'Bath Nightwatch' or similar.
- 15.14 The Licensing Authority also encourages all premises outside the Cumulative Impact Assessment Area, to take a similar approach to improve the issue of alcohol-associated anti-social behaviour outside the city centre at night.

## **16 Control of Anti-Social Behaviour, Crime and Disorder away from Licensed Premises**

- 16.1 Licensing law is 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 beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless it is a key aspect of such control and will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.
- 16.2 The licensing authority will encourage the use of other mechanisms for controlling problems caused by customers behaving badly and unlawfully once away from licensed premises. For example:
1. Positive measures to create a safe and clean town centre environment in partnership with the Bath Business Improvement District (BID), local businesses, transport operators and other departments of the Council.
  2. The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
  3. Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices for relevant offences.
  4. The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
  5. The confiscation of alcohol from adults and children in designated areas.

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6. Police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
  7. The power of the police, other responsible authorities or any other person to seek a review of the licence or certificate in question.
- 16.3 The Licensing Authority will endeavour to work in partnership with others to promote common objectives.

## Administration of Licensing Functions

### 17 Applications

- 17.1 Incomplete applications will not be accepted. Applications will only be considered where the relevant documentation and the fee accompany them.
- 17.2 The operating schedule will form part of the completed application form for a Premises Licence and Club Premises Certificate. It should include information which is necessary to enable any Responsible Authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 17.3 In preparing an operating schedule, the Secretary of State recommends that applicants should be aware of the expectations of the Licensing Authority and the Responsible Authorities about the steps that are necessary for the promotion of the licensing objectives.
- 17.4 Liaising with interested parties prior to submitting applications is good practice. The Licensing Authority recommends applicants discuss any new proposals with neighbours or any relevant community group such as a local residents' association.
- 17.5 The Licensing Authority actively encourages applicants to liaise with relevant Responsible Authorities such as the Police or Fire Service prior to submitting an application. This will allow the applicant to address any concerns raised within the operating schedule.
- 17.6 The Council offers a pre-application advice service to businesses to enable them to access relevant guidance tailored to their application. Information about this service can be accessed via:

<https://www.bathnes.gov.uk/services/business/licences/pre-application-advice>

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## 18 Licensing Hours

- 18.1 With regard to licensing hours the Licensing Authority will consider each case on its individual merits.
- 18.2 The Licensing Authority recognises that fixed 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 regarding the sale of alcohol 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.
- 18.3 The Licensing Authority will give due regard to the Guidance in relation to terminal hours and would not wish to inhibit the development of safe evening and night-time local economies.
- 18.4 It is not intended that the Licensing Authority's overall approach to licensing hours will include any form of zoning. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later, and puts greater pressure on communities than is necessary.
- 18.5 However, if presented with evidence of **serious alcohol related crime, disorder or anti-social behaviour** within a specific area, which cannot be attributed to one specific premises, the Licensing Authority may consider making an Early Morning Restriction Order (EMRO) to further the licensing objectives.
- 18.6 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, where relevant representations are substantiated in respect of individual shops, a limitation on licensing hours may be appropriate.

## 19 Conditions

- 19.1 The Licensing Authority **may not** impose conditions on, or refuse to grant/vary a Premises Licence or Club Premises Certificate **unless** it has received a relevant representation in respect of the application.
- 19.2 If no relevant representations are received, the application **must** be granted on the terms sought, i.e. consistent with the operating schedule submitted, and subject to the mandatory conditions specific to the type of authorisation applied for. No additional conditions may be imposed.

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- 19.3 Conditions may only be imposed on licences and certificates where they are appropriate for the promotion of one or more of the four licensing objectives. Conditions may not be imposed on licences and certificates for any other purpose.
- 19.4 One of the key concepts of the Act is for conditions to be tailored to the individual style and characteristics of the premises. The Licensing Authority acknowledges this concept of “bespoke” licensing and will only impose conditions that are both proportionate and appropriate to the business, organisation, or individual premises concerned. There will be no standard conditions.

## **20 Enforcement**

- 20.1 Enforcement will be in accordance with the Public Protection Service Enforcement Policy, which is based around the principles of consistency, transparency and proportionality, as set out in the Government’s Enforcement Concordat.
- 20.2 The Enforcement Policy (available on request) proposes that a graduated response is taken where offences against legislation are found, or where licence conditions have been contravened. An isolated administrative offence such as failing to maintain records may be dealt with purely by way of a written warning. More serious offences which have either been committed over a period of time, or which jeopardise public safety, may result in the issue of a Formal Caution, or a referral for prosecution.
- 20.3 The Licensing Authority will seek to work actively with the Police in enforcing licensing legislation. The Licensing Authority expects the Police to share information about licence holders and licensed premises, under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Licensing Authority when any enforcement action may be required.
- 20.4 The Licensing Authority will employ officers to investigate allegations of unlicensed activities and to ensure all conditions are fully complied with.

## **21 Drugs Policy**

- 21.1 The Licensing Authority recognises that as more licensed premises host the types of events at which people are likely to take drugs, it is imperative to ensure the safety of all those attending such events and taking account of any relevant government guidance. Premises should have a robust drugs policy which assists operators in identifying the risks of drugs associated with events and contains effective measures to safeguard the welfare of both customers and staff.

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## 22 Operating Schedules

- 22.1 Applicants for Premises Licences, Provisional Statements and Club Premises Certificates should be aware of the guidance issued by the Licensing Authority in relation to Operating Schedules when submitting their applications.
- 22.2 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training, and supervision of staff and the adoption of **best practice** to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority **recommends** that these elements should be specifically considered and addressed within an applicant's Operating Schedule.
- 22.3 The selection of control measures should be based upon a risk assessment of the premises, plus the events, activities and customers expected to attend (e.g. their age, number etc.). Whilst the Licensing Authority cannot require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the management of the premises.
- 22.4 The Operating Schedule should be prepared by, or on behalf of, the applicant, in relation to the premises for which a licence is being sought, taking into account the individual style and characteristics of the premises/events.
- 22.5 The Operating Schedule should include the following:
- a. Details of the relevant licensable activities to be conducted on the premises;
  - b. The times during which it is proposed that the relevant licensable activities are to take place (including any specific non-standard timings or seasonal variations);
  - c. Any other times when the premises are to be open to the public;
  - d. Where the licence is required only for a limited period, that period;
  - e. Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises, or both;
  - f. The steps which the applicant proposes to take to promote the licensing objectives such as the provision of security staff etc.;
  - g. Any other prescribed matters.

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- 22.6 The Guidance produced by the Secretary of State under Section 182 of the Act recommends that applicants should be aware of the expectations of the Licensing Authority regarding the steps that are necessary for the promotion of the licensing objectives. Any measures proposed by the applicant should be both realistic and within the control of the applicant/management of the premises.

## 23 Premises Licences

- 23.1 A Premises Licence will be required for the use of any premises, part of premises, or place for the following licensable activities:

- a. the sale of alcohol;
- b. the provision of regulated entertainment;
- c. the provision of late night refreshment.

- 23.2 When making an application to the Licensing Authority, the applicant must also send copies of the application to all the Responsible Authorities, namely:

- a. Chief Officer of the Police
- b. Fire & Rescue Service
- c. Trading Standards
- d. Local Safeguarding Children's Board
- e. Environmental Health Department
- f. Local Planning Authority
- g. Director of Public Health

and where relevant:

- h. Health and Safety Executive (e.g. for educational establishments)
- i. Maritime Agency (e.g. for boats)

The Licensing Authority is a Responsible Authority in its own right, but there is no requirement for applicants to submit anything more than the original application to the Authority.

- 23.3 In the case of electronic applications, the requirement to send copies to the relevant Responsible Authorities will pass from the applicant to the Licensing Authority.

## 24 Provisional Statements

- 24.1 Where premises are being, or are to be, constructed for the purpose of being used for one or more licensable activities, or are being, or about to be, extended, or otherwise altered for that purpose, a person may apply for a

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Provisional Statement if they have an interest in the premises, and, if they are an individual, that they are aged 18 years or older.

- 24.2 An application for a Provisional Statement must be accompanied by a schedule of works that includes details of the licensable activities for which the premises will be used, a plan of the premises; and such other information as may be prescribed.
- 24.3 Applications for Provisional Statements will be dealt with in a similar manner as applications for a Premises Licence. See also paragraph 23 relating to Operating Schedules.
- 24.4 Where relevant representations are made in relation to an application for a Provisional Statement the Licensing Authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a Premises Licence was sought for those premises, it would consider it necessary for the promotion of the licensing objectives to attach conditions (subject to the provisions of paragraph 20), rule out any of the licensable activities applied for, or to reject the application.

## **25 Club Premises Certificates**

- 25.1 Club Premises Certificates will be issued to qualifying Clubs as defined in the Act, which carry out the following recognised activities:
- a. the supply of alcohol by, or on behalf, of the Club to, or to the order of, a member of the Club;
  - b. the sale by retail of alcohol by, or on behalf of, a Club to a guest, or a member of the Club, for consumption on the premises where the sale takes place; and
  - c. the provision of regulated entertainment, where that provision is by, or on behalf of, a Club for members of the Club, or for members of the Club and their guests.
- 25.2 Besides making an application to the Licensing Authority, the applicant must also send copies of the application to all the responsible authorities, namely:
- a. Chief Officer of the Police
  - b. Fire & Rescue Service
  - c. Trading Standards
  - d. Local Safeguarding Children's Board
  - e. Environmental Health Department
  - f. Local Planning Authority

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g. Director of Public Health

and where relevant:

h. Health and Safety Executive (e.g. for educational establishments)

i. Maritime Agency (e.g. for boats)

The Licensing Authority is a Responsible Authority in its own right, but there is no requirement for applicants to submit anything more than the original application to the Authority.

25.3 In the case of electronic applications the requirement to send copies to the responsible authorities will pass to the Licensing Authority.

25.4 A Club Operating Schedule should also be submitted with the application, together with a copy of the club rules. See also paragraph 23 above relating to Operating Schedules.

## **26 Variation of Premises Licence or Club Premises Certificate**

26.1 Applications to vary a Premises Licence or Club Premises Certificate will be dealt with in a similar manner to applications for a new Premises Licence or Club Premises Certificate. When the Licensing Authority receives an application for a variation of these authorisations, it must determine whether the application has been properly made. Among other things the Licensing Authority will consider whether the application has been properly advertised.

26.2 Where an application has been lawfully made and provided that no relevant representation has been made by any responsible authority or other person then no hearing will be required and the application will be granted in the terms sought, subject only to conditions which are consistent with the Operating Schedule and any mandatory conditions required.

26.3 The Licensing Authority must consider whether any representations received are relevant. A "relevant" representation must focus only on the "change" proposed in the variation application and how this change is likely to have a detrimental effect on at least one of the licensing objectives. If relevant representations are made and not withdrawn, the Licensing Authority will hold a hearing, and at that hearing the Licensing Authority may:

- a. modify the conditions of the Licence; or
- b. reject the whole, or part of the application; or
- c. grant the application as applied for

26.4 If the Licensing Authority considers that the representations are not relevant

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then a hearing will not be required and the application will be granted in the form it was applied for. The aggrieved party may challenge the Licensing Authority's decision by way of judicial review.

- 26.5 The exception to the above procedure concerns applications for minor variations, whereby the proposed variation generally amounts to:
- a. a minor change to the structure or layout of a premises;
  - b. small adjustments to licensing hours;
  - c. the removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions;
  - d. the addition of certain licensable activities

which will not impact adversely on the licensing objectives. These are subject to a simplified 'minor variations' process. Parties may still make representations, and the Licensing Authority is entitled to seek the views of any of the any of the responsible authorities when determining such applications. There is no right to a hearing as officers have delegated powers to determine applications under this process.

## **27 Personal Licences**

- 27.1 General Requirements - Personal Licences will be granted if the applicant can demonstrate each of the following:
- a. they are 18 years of age or over;
  - b. they possess an appropriate licensing qualification, or are a person of a prescribed description; i.e. a person of a description prescribed by Secretary of State by regulations;
  - c. no Personal Licence held by the applicant has been forfeited in the period of five years ending with the day the application was made;
  - d. the applicant has not been convicted of any relevant offence, or any relevant foreign offence.
  - e. Their right to work in the UK and provide the relevant documentation
- 27.2 **The Authority will reject any application where points a, b, c or e above are not met.**

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27.3 Applicants with unspent criminal convictions for relevant offences set out in Regulations made under the Act are encouraged to first discuss their intended application with the Council's Licensing Officers and/or Police Licensing Officers before making an application. Guidance in relation to unspent criminal convictions can be found in the Licensing Authority's Guidance Notes for Applicants.

## **28 Designated Premises Supervisors**

28.1 The sale of alcohol carries with it greater responsibility than that associated with the provision of entertainment and late night refreshment as it has a wider impact on the community. Therefore the main purpose of having a Designated Premises Supervisor (DPS) nominated on the premises licence is to ensure there is a specified individual who can be readily identified at the premises. The DPS therefore will occupy a pivotal role in terms of management and supervision of the premises, and may be given day to day responsibility for running the premises. All sales of alcohol made under the authorisation of a premises licence, must be authorised by the person nominated as the DPS on the premises licence.

28.2 The DPS may nominate other personnel in his/her place as having authority to make sales of alcohol provided that authority is in writing thereby giving a meaningful and proper authorisation.

28.3 A joint interview between the Licensing Authority, Police and applicant may be arranged where the Police are minded to object to the variation of a DPS on the grounds that such a variation may undermine the Prevention of Crime and Disorder objective.

28.4 The exception to the above is to allow certain community premises which have, or are applying for a premises licence, that authorise the sale of alcohol, to apply the alternative licence condition instead of the usual mandatory conditions. The effect of the alternative licence condition is that the licence holder, i.e. the management committee which runs the community premises, is responsible for the supervision and authorisation of all alcohol sales.

## **29 Temporary Event Notices**

29.1 Temporary Event Notices do not involve the Licensing Authority in giving permission for the event to take place. This is a notification procedure in which only the Police and Environmental Protection may intervene to prevent such an event, or to modify the arrangements for such an event. The Licensing Authority will only intervene if the limits on the number of notices given are exceeded.

29.2 A "Standard" TEN requires an organiser of a temporary event to give the

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Licensing Authority a minimum of 10 clear working days' notice.

- 29.3 A "Late" TEN is a TEN received by the Licensing Authority 5–9 clear working days prior to the day of the event.
- 29.4 "Clear working days" means working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given. A "working day" is defined as any day other than a Saturday, Sunday, Christmas Day, Good Friday, or a day which constitutes a Bank Holiday under the Banking and Financial Dealings Act 1971 in England and Wales.
- 29.5 If an objection is received to a "Late" TEN then the Licensing Authority must issue a counter notice at least 24 hours prior to the event. Unlike a Standard TEN the premises user has no right to a hearing in relation to a contentious "Late" TEN and as such any licensable activities proposed at the event, will be unauthorised, and it will be an offence to carry on any such activities. Likewise, any notice received within less than 5 clear working days' notice will be invalid.
- 29.6 It is therefore obvious that by submitting a "Late" TEN the organiser runs the risk of receiving a counter notice and not being able to hold the event. Although legally the Licensing Authority must receive "Late" TENS, it recommends a minimum notice period of one calendar month before the date of the event taking place.

## **30 Transfer of Premises Licences**

- 30.1 In the vast majority of cases it is expected that a transfer will be a very simple administrative process. This is to ensure that there should be no interruption to normal business at the premises.
- 30.2 Notice of the application must be given to the Police. If the Police raise no objection about the application the Licensing Authority will transfer the licence in accordance with the application, amend the licence and return it to the new holder.
- 30.3 In exceptional circumstances the Police may consider that the granting of the application would undermine the crime prevention objective. In these circumstances the Licensing Authority must hold a hearing and consider the objection, they will not be able to consider any other matters. The Committee will give reasons for the decision made.

## **31 Interim Authority Notices**

- 31.1 Generally a licence will remain in force for as long as the licence holder continues to operate the business, unless it is revoked, or it is specified that it

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has effect for a limited period and that period expires. However, if the holder of a Premises Licence dies, becomes mentally incapable or becomes insolvent, then the licence will lapse.

- 31.2 The licence may be reinstated for a three month period if within 28 days of such circumstances, a person who had an interest in the premises concerned, or is connected to the person who held the Premises Licence immediately before it lapsed, gives the Licensing Authority an Interim Authority Notice.
- 31.3 At the end of the three months it will lapse unless an application for a transfer of premises licence holder is made.
- 31.4 A person is connected to the former holder of a Premises Licence if, and only if:
- a. the person is the personal representative in the event of the holder's death;
  - b. in respect of someone who has become mentally incapable, the person is acting under section 6 of the Enduring Powers of Attorney Act 1985; or
  - c. in the event of insolvency, the person is acting as an Insolvency Practitioner.
- 31.5 Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of crime objective, the Licensing Authority will arrange a hearing to consider the Notice.

## Licensing Objectives

### 32 Prevention of Crime and Disorder

- 32.1 Under Section 17 of the Crime and Disorder Act 1998, the Council has a duty to do all that it reasonably can to prevent crime and disorder in the area. The fear of crime created by disorder, including drunkenness, is as damaging to public confidence and the quality of life as crime itself. The Council's Community Safety Plan in alignment with the Police Crime Commissioner aims to reduce crime, disorder, nuisance and the fear of crime, making Bath and North East Somerset a safer place to live, work and visit. CB to check this with Sam Jones
- 32.2 The Council has introduced measures to assist in the management of this, including the provision of Bath Nightwatch, BID Marshals and Taxi Rank Marshals and the installation of CCTV cameras. Joint working with the Police is ongoing, and the Council would expect this partnership approach to be embraced by the licensing trade. This would include participation in the Bath Nightwatch scheme that includes a radio system between licensed premises which links with the CCTV, the Police, Street & Taxi Marshals/FAST ambulance

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and the Street Pastors.

- 32.3 The Licensing Authority will consider whether the grant of an application will result in an increase in crime and disorder.
- 32.4 Applicants are encouraged to consider crime prevention procedures in their premises before making a formal application. Applicants are encouraged to work in partnership with other licence holders in order to reduce crime and disorder in their area.
- 32.5 The Licensing Authority will continue to play an active part in the development of Pubwatch/Nightwatch and other such schemes.
- 32.6 The Licensing Authority recognises that no matter how well managed the premises are, crime and disorder can occur, particularly outside the premises. Therefore in considering whether the crime and disorder objective is met, the Licensing Authority will normally take into account the criteria set out below.
- 32.7 In considering licence applications, the following will be taken into account:
1. Whether the design, layout, lighting and fittings of the premises have been considered with a view to restricting conflict and minimising opportunities for crime and disorder.
  2. Whether the applicant has included in the Operating Schedule appropriate management measures to prevent/reduce crime and disorder.
  3. Training given to staff in crime prevention measures appropriate to those premises.
  4. Physical security features installed in the premises. This may include matters such as the position of cash registers; where alcohol is stored in 'off-licences', or the standard of CCTV installed, and the use of toughened drinking glasses in pubs and clubs.
  5. The likely exit times from the premises and the demands upon and the capacity of public transport at those times.
  6. Any other such measures as may be appropriate, such as participation in Nightwatch/Pubwatch or other such schemes, 'music wind-down policies', restrictions on 'happy hours' and the availability of seating to discourage vertical drinking.
  7. The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies.

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8. Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.
  9. The likelihood of any violence, public order or policing problems if the licence is granted.
  10. The applicant's willingness to work in partnership with neighbouring licence holders in order to reduce crime and disorder.
  11. The policy on cumulative impact.
- 32.8 The Licensing Authority would also recommend that all Designated Premises Supervisors undergo appropriate additional training and have experience commensurate with the nature and style of entertainment provided and capacity of the premises.

## **33 Public Safety**

- 33.1 The Licensing Authority has established protocols with the local Police on enforcement issues to enable a more efficient deployment of Licensing Authority staff and police officers who are engaged in enforcing licensing law and the inspection of licensed premises.
- 33.2 This protocol also provides for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run.
- 33.3 Inspections are not undertaken routinely, but only when they are judged necessary. This ensures that resources are more effectively concentrated on problem premises. The Act enables the Licensing Authority through its officers to exercise discretion in relation to inspections and does not require annual inspections to take place. The Licensing Authority therefore, does not intend to carry out annual inspections unless the assessed risks make such inspections necessary.
- 33.4 From time to time premises are inspected by Council Officers, the Police and/or the Fire and Rescue Service for purposes of ascertaining compliance with the Act or associated Legislation or Regulations.
- 33.5 During the application period the Responsible Authorities might decide to carry out their own inspections.
- 33.6 Crime, disorder and anti-social behaviour threaten public safety and affect perceptions of public safety. The Licensing Authority must try to ensure the safety of people visiting and working in licensed premises. The Licensing

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Authority will need to satisfy itself that measures to protect the public including setting safe capacities, adequate means of escape, and the provision of fire fighting equipment and CCTV etc. are put in place and maintained if this is not adequately provided for by other regulatory regimes.

33.7 Licensed premises present a mixture of Health and Safety risks, some of which are common to many premises, and others unique to single premises. It is essential that premises are constructed, or adapted, so as to safeguard occupants against such risks.

33.8 Where relevant representations are made in relation to imposing a maximum number of persons resorting to premises at any one time for example, to ensure the safety of persons in the premises, and safe escape in the case of an emergency, the Licensing Authority will consider the imposition of occupancy limits by way of condition where it is considered necessary in relation to the promotion of one or more of the licensing objectives.

## **34 Prevention of Public Nuisance**

34.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.

34.2 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority intends to maintain and protect the amenity of residents and other businesses from the potential adverse consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

34.3 In considering an application for a Premises Licence or Club Premises Certificate, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to the circumstances of the application.

34.4 The Licensing Authority will consider in particular:

1. The proximity of noise sensitive residential and commercial premises, the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
2. The steps to be taken or proposed to be taken by the applicant to prevent litter and smell nuisance from the premises.

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3. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.
  4. The steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable, then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction.
  5. Whether there is sufficient provision of public transport (including taxis and private hire vehicles) for patrons.
  6. The installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship.
  7. The use of gardens and other open-air areas.
  8. The position or proposed position of external lighting, including security lighting that is installed inappropriately.
  9. Whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity.
  10. The steps taken or proposed by the applicant with particular regard to the recycling of glasses, bottles and cans from their premises.
- 34.5 The role of the Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of the residents. The Licensing Authority will need to satisfy itself that adequate measures are in place to prevent public nuisance.

## **35 Protection of Children from Harm**

- 35.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 35.2 It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 35.3 Whilst the Act allows children access to licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 35.4 The general relaxation in the Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in

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family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

- 35.5 The Licensing Authority recognises the Local Safeguarding Children's Board as the Responsible Authority to advise it on matters relating to the protection of children from harm.
- 35.6 The Licensing Authority will judge the merits of each application before deciding whether to impose conditions limiting the access of children to individual premises.
- 35.7 The following are examples of premises that will raise concern:
1. Where entertainment or services of an adult or sexual nature are commonly provided.
  2. Where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or with a reputation for underage drinking.
  3. Where there is a known association with drug taking or dealing.
  4. Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines).
  5. Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
  6. Venues which are running 'under-18' events allowing entry to intoxicated young people.
- 35.8 The Licensing Authority may consider limiting the access of children where it is necessary for the prevention of harm to children. The following conditions may be considered appropriate:
1. Limitations on the hours when children may be present.
  2. The exclusion of children under certain ages when particular activities are taking place.
  3. Limitations on the parts of premises to which children might be given access.

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4. Requirements for an accompanying adult.
  5. Full exclusion of people under 18 from the premises or parts of the premises when any licensable activities are taking place.
- 35.9 No conditions will be imposed requiring that children be admitted to any premises and where no limitation is imposed this will be left to the discretion of the individual licence holder.
- 35.10 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the Police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 35.11 The Licensing Authority recommends that where appropriate, applicants familiarise themselves with the DrinkAware and Portman Group Codes of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The codes seek to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older.
- 35.12 Films cover a vast range of subjects, some of which deal with adult themes and/or contain for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 35.13 The Licensing Authority will expect licence holders or clubs to include in their Operating Schedules arrangements for restricting children from viewing age-restricted films classified according to recommendations of the British Board of Film Classification (or the Licensing Authority itself) to satisfactorily address safety issues including the supervision of children.
- 35.14 The Act also provides that it is mandatory for a condition to be included in all Premises Licences and Club Premises Certificates authorising the exhibition of films for the admission of children to the exhibition to be restricted in accordance with the recommendation given either by the British Board of Film Classification or the Licensing Authority.
- 35.15 Many children go to see and/or take part in an entertainment arranged especially for them, for example, children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.
- 35.16 The Licensing Authority will expect the Operating Schedule to satisfactorily address safety issues including the supervision of children.

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## Complaints Regarding Licensed Premises

### The Management of Complaints

36.1 The Licensing Authority will investigate **all** complaints against licensed premises with regard to matters relating to the four licensing objectives. If possible in the first instance, the complaint should be raised directly with the licence holder or business concerned to seek a local resolution. If this is not possible then residents can contact their local Resident's Association to act on their behalf or contact the Licensing Team directly.

36.2 Where a local resident or residents' association have made for example:

- relevant representations about licensed premises, or
- a valid application for a premises licence or club premises certificate to be reviewed.

the Licensing Authority encourages parties to arrange a conciliation meeting to address and clarify the issues of concern where practicable.

36.3 Nothing in this Policy shall restrict the right of a Responsible Authority or any other person to call for a review of a licence or club premises certificate, or make relevant representations in accordance with the Act.

### How to Make a Complaint or Contribute to a Review

36.4 Any person wishing to make a complaint about a licensed premises can contact the Licensing Team in the following ways:

By email: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)

Via the website: [www.bathnes.gov.uk/forms/licensed-premises-complaint-form](http://www.bathnes.gov.uk/forms/licensed-premises-complaint-form)

By telephone: 01225 477531

In person at any of the Council's One Stop Shops

36.5 Information about submitting a representation can be found on the Council's website at:

<https://www.bathnes.gov.uk/services/business/licences/alcohol-and-entertainment/representations>

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## Decision Making

### 37 Licensing Committee Terms of Reference

- 37.1 The Committee's terms of reference will be set out in the Council's Constitution. The terms of reference have been guided by Regulations issued under the Act.

### 38 Allocation of Decision making Responsibilities

- 38.1 The table on page 36 duplicates the Table of Delegations of Licensing Functions as set out in the Council's Constitution.

### 39 Relevant Representations

- 39.1 Representations should be made in writing and received by the Authority within the 28 day period commencing the day after the application/review was served on the Authority. The Authority may not exercise any discretion in respect of late representations.
- 39.2 Relevant representations will illustrate the likely effect the proposals within the application will have on the promotion of at least one of the licensing objectives.
- 39.3 Representations may take the form of an objection, or be positive, and express support of the application.
- 39.4 A representation will not be relevant if the case officer deems it to be frivolous or vexatious.
- 39.5 Representations made by any Responsible Authority or other person which are subsequently withdrawn, will not be regarded as "relevant".
- 39.6 'Responsible Authority' means any of the following:
- a. Police
  - b. Fire & Rescue Service
  - c. Trading Standards
  - d. Local Safeguarding Children's Board
  - e. Environmental Health Department
  - f. Local Planning Authority
  - g. Health & Safety Executive (if premises is a school/college)
  - h. Maritime Agency (if premises is a "vessel")
  - i. Director of Public Health
  - j. The Licensing Authority
  - k. Any other Authority as may be prescribed by Regulations.

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39.7 Once the Authority is in receipt of a relevant representation, it may no longer grant the application in the form in which it was applied for; instead the matter must proceed to hearing to be determined before the Licensing Sub Committee. With this in mind, the Authority would recommend all applicants allowing two months for an application to be processed.

## **40 Other Considerations**

40.1 The Licensing Authority will give reasons for its decisions. The Licensing Authority will also address the extent to which the decision has been made with regard to the Act, its Statement of Licensing Policy, the Guidance issued by the Secretary of State under the Act and the Human Rights Act 1998.

## **41 Reviews**

41.1 The process for reviewing premises licences and club premises certificates is seen as representing a key protection for the community where problems associated with any of the four licensing objectives are occurring. Licensing Authorities are encouraged to apply a 'light touch' to the grant and variation of premises licences and club premises certificates. The provision of the review mechanism to deal with concerns relating to the licensing objectives arising later in respect of individual premises is integral to this.

41.2 At any stage following the grant of a premises licence or club premises certificate, a Responsible Authority or other person may apply to the Licensing Authority to review a licence because of a matter arising at the premises in connection with one or more of the four licensing objectives. Any application for review must be in writing. Copies of the application must be simultaneously served on the premises licence holder and the relevant Responsible Authorities.

41.3 Additionally a review of the licence will normally follow any action by the Police to close the premises on grounds of disorder or public nuisance.

41.4 The application must relate to a specific premises for which a premises licence or club premises certificate has effect. The grounds for review must be relevant to one or more of the licensing objectives.

41.5 Sufficient information or evidence should be contained within the application to enable the holder of the premises licence or club premises certificate or any representative of the holder of a premises licence or club premises certificate to prepare a response.

41.6 Where the application for a review is received the Licensing Authority must firstly consider whether it is relevant. Any applications found to be irrelevant, vexatious or frivolous will be rejected and the review applicant advised of the

# STATEMENT OF LICENSING POLICY

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reason(s) for the rejection.

- 41.7 Where a relevant application is received the Licensing Authority will advertise the application and hold a hearing to determine the review application.
- 41.8 The Licensing Act 2003 provides the Licensing Authority with a range of powers on determining a review that it may exercise where it considered necessary for the promotion of one or more of the licensing objectives.
- 41.9 The Licensing Authority would strongly urge anyone who is suffering adverse effects due to the way in which a licensed premises is operating, to talk to the Licensing Team. Officers can give free impartial advice on how to complete the necessary forms, and talk those affected through the review process.

## **42 Appeals**

- 42.1 New and variation applications once determined will take immediate effect. There will however follow a 21 day appeal period during which any party to the hearing may appeal the decision to Bath Magistrates' Court.
- 42.2 Once an application for the Review of a premises licence or club premises certificate has been determined, it will not take effect until the 21 day appeal period had lapsed or if appealed, once the appeal has been dispensed with.
- 42.3 An appeal against the grant or refusal of a personal licence application must be made to the Magistrates' Court.
- 42.4 Schedule 5 to the Licensing Act 2003 sets out entitlement to appeal.

## **Fees**

- 43 The Authority is aware that the Government is considering moving from nationally set Licensing Act fees to locally set fees. The situation will be monitored and reviewed as necessary.

## **Late Night Levy**

- 44 Late Night Levy

This is a power conferred on Licensing Authorities by the Police Reform and Social Responsibility Act 2011 which enables a levy to be charged persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy. The option of introducing such a levy will be kept under review by the Council.

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## Table of Delegations of Licensing Functions

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB COMMITTEE	OFFICERS
Approval of Policy and annual review	All cases		
Application for Personal Licence		If a police objection is made	If no objection made
Application for Personal Licence, with unspent convictions		If a police objection is made	If no objection made
Application for Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application for Provisional Statement		If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary Designated Premises Supervisor		If a police objection is made	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a police objection is made	All other cases
Application for interim authorities		If a police objection is made	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 an objection to a Standard Temporary Event Notice		All cases	
Determination of Minor Variation applications for premises licences and for club premises certificates.			All cases
Determination of the removal of a Designated Premises Supervisor or Personal Licence Holder at community premises.		If a relevant representation is made.	All other cases
Applications for the classification of unclassified films.		All cases	

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## Further Information

**Further information about the Act and this Statement of Licensing Policy can be obtained from:**

Licensing Services  
Bath & North East Somerset Council  
Lewis House  
BATH  
BA1 1JG

Tel: 01225 477531  
Email: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)  
Website: [www.bathnes.gov.uk](http://www.bathnes.gov.uk)

The Guidance issued under Section 182 of the Act can also be viewed on this site.

**Information in relation to large events is available from the Council's Event Safety Co-ordinator:**

Building Control and Public Protection  
Bath & North East Somerset Council  
Lewis House  
BATH  
BA1 1JG

Tel: 01225 477563  
Email: [Public\\_Protection@bathnes.gov.uk](mailto:Public_Protection@bathnes.gov.uk)  
Website: [www.bathnes.gov.uk](http://www.bathnes.gov.uk)

**The Licensing Act 2003 can be viewed online at:**

[www.opsi.gov.uk/acts/acts2003/ukpga\\_20030017\\_en](http://www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en)