

# Licensing Act Committee 11 March 2019



Working in partnership with **Eastbourne Homes**

**Time and venue:**

**6.00 pm in the Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG**

**Membership:**

**Councillor Troy Tester (Chair); Councillors Pat Rodohan (Deputy-Chair)  
Colin Belsey, Sammy Choudhury, Janet Coles, Tony Freebody, Colin Murdoch,  
Jim Murray, Margaret Robinson, Robert Smart, Steve Wallis and Pat Hearn**

**Quorum: 3**

*Published: Friday, 1 March 2019*

## Agenda

- 1 Minutes of the meeting held on 8 January 2018 (Pages 1 - 2)**
- 2 Apologies for absence.**
- 3 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**
- 4 Questions by members of the public.**

On matters not already included on the agenda and for which prior written notice has been given (total time allowed 15 minutes).
- 5 Urgent items of business.**

The Chairman to notify the Committee of any items of urgent business to be added to the agenda.
- 6 Right to address the meeting/order of business.**

The Chairman to report any requests received to address the Committee from a member of the public or from a Councillor in respect of an item listed below and to invite the Committee to consider taking such items at the commencement of the meeting.
- 7 Review of Eastbourne Borough Council's Statement of Licensing Policy including the Cumulative Impact Policy, Licensing Act 2003 (Pages 3 - 78)  
Report of Functional Lead – Quality Environment.**

## Information for the public

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**Public participation:** Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

## Information for councillors

**Disclosure of interests:** Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

**Councillor right of address:** Councillors wishing to address the meeting who are not members of the committee must notify the Chairman and Democratic Services in advance (and no later than immediately prior to the start of the meeting).

## Democratic Services

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Monday, 8 January 2018  
at 6.00 pm



## Licensing Act Committee

Present:-

**Members:** Councillor Tester (Chairman) Councillor Rodohan (Deputy-Chairman) Councillors Belsey, Choudhury, Coles, Freebody, Holt, Murdoch, Murray, Smart and Swansborough

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### **6 Minutes of the meeting held on 2 October 2017.**

The minutes of the meeting held on 2 October 2017 were submitted and approved and the Chair was authorised to sign them as an accurate record.

### **7 Apologies for absence.**

An apology for absence was reported from Councillor Robinson.

### **8 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**

Councillor Holt declared a pecuniary interest in agenda item 7 as an employee of Eastbourne Chamber of Commerce, who submitted a response to the cumulative impact policy during the first consultation period. Councillor Holt withdrew from the room whilst this item was considered.

### **9 Council Licensing Policy Statement - Review of Cumulative Impact Policy, Licensing Act 2003.**

The committee considered the report of the Senior Specialist Advisor regarding the second consultation carried out for the review of the Council's Cumulative Impact Policy (CIP) and to address the issues raised at the previous meeting in October 2017.

The report further detailed number of premises trading when the CIP was implemented and to the present day, compared with the number of premises with licences attached as highlighted in table 1 of the report. Members noted that there had been an overall increase within the Borough both of premises within the CIP and those outside the zone.

Rachel Barrows, Sussex Police, was in attendance to answer Members questions and provided the committee with the most up to date Crime and disorder data from Sussex Police when the CIP was implemented to the present day. Ms Barrows advised that Sussex Police supported the retention of the Policy and the promotion of the Licensing objectives. The committee was advised that Public Place Violent Crime had reduced year on

year. Members were also advised that the Police could make representations regardless of whether a CIP was in place or not.

The committee had requested a map of the CIP zone and premises located within and what type they were (restaurant, public houses, nightclubs etc.) At the time of going to print this was not available but a map showing extent of current CIP on page 8 of the report.

Annie Wills, Head of Tourism and Enterprise, attended the meeting as requested and advised the committee that with some 5 million visitors to Eastbourne each year it was important to provide as varied an offer to the public as possible. She also stated that it was also important to reduce the number of street drinkers within the town.

Jay Virgo addressed the committee highlighting the reduction in the number of pubs and an increase in the number of cafes with alcohol licenses and therefore reducing 'vertical' drinking across the CIP. He continued that quantity was more important than quality and that it may be time to relax the rules. Mr Virgo also highlighted three 'hotspots' within the town centre and suggested action by the authorities should be targeted in those areas.

The committee discussed various points including the net gain of premises since the policy was implemented, number of premises operating within the zone, current night time economy in the town and stressed the importance of encouraging new businesses to the area, particularly with the launch of 'The Beacon' in late 2018. Members were advised that the Licensing Policy was due for a complete review in 2019 and that these issues could be reconsidered again at that time.

Councillor Smart requested further information regarding the licensing fees and the Functional Lead Quality Environment agreed to provide the details to the committee following the meeting.

A motion to remove the CIP proposed by Councillor Murdoch was lost by 3 votes to 5.

NB: Councillor Holt withdrew from the room whilst this item was considered.

**RESOLVED:** (By 5 votes to 2 with 3 abstentions) 1) That the current CIP be retained without amendment.

2) That Council be advised that the Licensing Act Committee wish to retain the current CIP without amendment.

The meeting closed at 6.55 pm

**Councillor Tester (Chair)**

<b>Report to:</b>	<b>Licensing Act Committee</b>
<b>Date:</b>	<b>11 March 2019</b>
<b>Title:</b>	<b>Review of Eastbourne Borough Council's Statement of Licensing Policy including the Cumulative Impact Policy, Licensing Act 2003</b>
<b>Report of:</b>	<b>Ed Hele, Functional Lead Quality Environment</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To review the Council's Statement of Licensing Policy and Cumulative Impact Assessment and authorise the Senior Specialist Advisor to start an eight week consultation of the proposed new Statement of Licensing Policy including the Cumulative Impact Assessment.</b>
<b>Officer recommendation(s):</b>	<b>(1) That the Committee considers the revised draft Statement of Licensing Policy and Cumulative Impact Assessment.</b> <b>(2) That the Committee agree the contents of the draft policy and assessment and authorise the Senior Specialist Advisor to start an 8 week consultation on the revised Policy and Assessment.</b> <b>(3) That a further report is presented to the Committee following the results of the consultation with a final Policy to be agreed and recommended to Full Council unless there are only minor amendments and these can be made by the Functional Lead in consultation with the Chair before Full Council.</b>
<b>Reasons for recommendations:</b>	<b>To ensure the Statement of Licensing Policy is reviewed in accordance with statutory guidelines.</b>
<b>Contact Officer(s):</b>	<b>Name:</b> Ed Hele <b>Post title:</b> Functional Lead – Quality Environment <b>E-mail:</b> ed.hele@lewes-eastbourne.gov.uk <b>Telephone number:</b> 01323 415014

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## **1.0 Introduction**

- 1.1 From November 2005 Eastbourne Borough Council became the Licensing Authority in respect of all licensable activities governed by the Licensing Act 2003, referred to hereafter as the Act.

1.2 As the Licensing Authority, in accordance with Schedule 5 of the Act, Eastbourne Borough Council must prepare, consult and publish its Statement of Licensing Policy. As noted in the Council's constitution, the Licensing Act 2003 requires that the policy is approved by Full Council.

1.3 The purpose of the Statement is to promote the Licensing Objectives. It sets out the general approach taken by the Authority when considering and determining applications under 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

1.4 The Licensing Authority must carry out its functions with a view to promoting the Licensing Objectives. Regard must be had to Section 182 Guidance, issued in the April 2019 to Local Authorities by the Home Office. Where the Licensing Authority decides to deviate from this Guidance, it must have justifiable reasons for doing so.

## **2.0 The Council Statement of Licensing Policy**

2.1 The Licensing Committee is required, under Section 5 of the Act to prepare and publish a statement of its licensing policy at least every five years. During the five-year period, the policy must be kept under review to ensure that it accurately reflects the Councils approach, whilst responding to the evolving nature of Eastbourne.

2.2 The draft Policy Statement has been updated to reflect changes in Section 182 Guidance and other legislation. Updates of particular note are the scheme of delegation for Officers, the Policing and Crime Act 2017, applications for personal licences including suspension and revocation, the Immigration Act 2016 and the Legislative Reform (Entertainment Licensing) Order 2014.

## **3.0 The Cumulative Impact Assessment**

3.1 The cumulative impact of licensed premises in an area, and their impact on the promotion of the licensing objectives is a proper matter for Eastbourne Borough Council to consider. This is particularly relevant where its inclusion in the wider Council Statement of Licensing Policy will help to promote the Licensing Objectives.

3.2 The effect of adopting a special policy of this kind within the Statement of Licensing Policy is to create a "rebuttable presumption" that applications for new premises licences, club premises certificates or material variations will be refused if they fall within the specified area whenever the Licensing Authority receives relevant representations about the cumulative effect or concentration of premises in an area and the impact on the promotion of one or more of the Licensing Objectives.

3.3 Such representation can come from Responsible Authorities and/or interested parties or anyone, and, following a hearing, should normally lead to refusal where it can be upheld that the matter in question undermines the Cumulative Impact Policy and the promotion of the Licensing Objectives.

3.4 It is important to note that adoption of the policy does not prohibit applications in the designated cumulative impact area. It would be for the applicant to demonstrate to the Licensing Authority that the operation of the premises involved will not add to the negative cumulative impact already being experienced in the area and would not undermine the promotion of the Licensing Objectives.

#### **4.0 Review of the Cumulative Impact**

4.1 A copy of the new draft Statement of Licensing Policy and the Cumulative Impact Policy and designated zone, outlined in blue, can be found as an appendix 2 to the new draft Policy.

4.2 It is important that the Committee regularly review Cumulative Impact in line with Section 182 guidance which states that: *“Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or if those which are contained in the statement of licensing policy should be amended”*.

4.3 Sussex Police are in support of keeping Cumulative Impact within the Statement of Licensing Policy, thereby promoting the licensing objectives in accordance with Licensing Act 2003.

4.4 Overall, crime has reduced throughout Eastbourne District in the recent rolling year February 2018 – January 2019 with 269 less offences on the previous rolling year Feb 2017 – Jan 2018, with the exception of violent crime. Crime data for Eastbourne Town Centre produced by Sussex Police is provided as Appendix 1 (A) and will form part of the consultation.

4.5 The breakdown of crime data by Police Beat area over the latest rolling year period of February 2018 – January 2019 shows 30% of all recorded crime in Eastbourne occurred within Devonshire Police Beat. Breaking it down further for Devonshire Ward:

- The main crime type recorded was Violent Crime, responsible for 51% of all crime in this location.
- Devonshire also recorded the highest proportion of Violent Crime (29%) out of the nine police beat areas in Eastbourne.
- Over the last 12 month period, the total number of overall violent crime offences in Devonshire has increased (+126).
- However, the breakdown of Violent Crime and Violence against the Person offences recorded as Public Place (excluding Domestic) shows offences have reduced compared to the previous 12 month period.
- Incident data for reports of anti-social behaviour and incidents flagged as being alcohol related show that the overall number of incidents reported in Devonshire over the last 12 months have reduced as well as the percentage of these types of incidents occurring in the area compared to

the rest of Eastbourne.

- 4.6 Sussex Police has applied Cumulative Impact to ensure that existing and new applications continue to actively promote the licensing objectives, specifically the prevention of crime and disorder and protecting children from harm. It has not been used to place a strangle hold on any new business, or to manage existing responsibly operated enterprises out of business. The policy has also been used to good effect to ensure clarity and control over conditions on the premises licence within the Zone to help protect from any opportunity to convert for example from café to vertical drinking establishment in the future.
- 4.7 The crime data demonstrates that weekends in the town centre continue to offer a level of risk which is largely mitigated by some of the partnership measures in place; however the link between place of purchase and impact is now often blurred by distance and time. Sussex Police have particular concerns regarding the proliferation of off-licensed premises in Eastbourne town centre. Pre-loading and public space drinking after the purchase of alcohol from off-licences creates challenges within any acceptable walking distances of the town centre, and this applies to the end of a night out when further purchases of food and alcohol are made, as well as the start.
- 4.8 Affordability and availability of alcohol, particularly high strength alcohol and controlled drugs such as Cocaine, present an ongoing threat of harm. Premises Licence Holders have a key role to play in how their premises are managed and should be proactive to ensure that the sale and consumption of alcohol is carried out responsibly and measures are put in place to reduce the use of controlled drugs on their premises. It is felt that by maintaining cumulative impact it provides proportionate and effective measures to address these issues and assists both the Police and Partnership to manage the threat around violent crime, whilst also supporting the local economy and social choice.

## **5.0 Financial appraisal**

- 5.1 There are no significant financial risks arising from this report.

## **6.0 Legal implications**

- 6.1 Section 5 Licensing Act 2003 (as amended) requires the licensing authority to prepare and publish a Statement of Licensing Policy in respect of each five year period.
- 6.2 Before determining the Policy the Licensing Authority must under section 5(3) of the Act consult with the Police, Fire and Rescue Authority, the Director of Public Health, representatives of local premises licence holders, representatives of local club premises, representatives of personal licence holders and representatives of businesses and residents in its area. Those views will be given appropriate weight.
- 6.3 During the five year period the Policy must be kept under review and the licensing authority must make such revisions as it considers appropriate.

- 6.4 As a result of section 141(3) Policing and Crime Act 2017, a new section 5A was added to the Act to place Cumulative Impact Assessments (CIA) on a statutory footing. The legislation states that a licensing authority may publish a CIA stating that it considers that the number of premises licences and club premises certificates in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely to be inconsistent with the promotion of the licensing objectives to grant any further licences or certificates in that part or parts. The section 182 Guidance at para 14.24 states “A CIA may be published by a licensing authority to help it to limit the number or types of licence applications granted in the area where there is evidence to show that the number or density of licences premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.” The Guidance also provides a checklist for the consultation process and details on the gathering of the evidence to be considered.
- 6.5 The Guidance confirmed that there was no transitional provisions for an existing Cumulative Impact Policy but advised that such a policy be reviewed within three years of the commencement of the legislation (6 April 2018) or when the policy is next due for review, whichever is soonest.
- 6.6 Section 5A also requires that where a licensing authority publishes a CIA it must before the end of every three year period carry out a further consultation and consider whether it remains of the opinion stated in the assessment.
- 6.7 The Legal Section has considered this Report on 28 February 2019 (Iken-8104-MW).

## **7.0 Appendices**

- Appendices 1-5 – Draft Statement of Licensing Policy 2019 – 2024
- Appendix A – Sussex Police Eastbourne Town Centre Crime and ASB Data

## **8.0 Background papers**

The background papers used in compiling this report were as follows:

- <https://www.lewes-eastbourne.gov.uk/licensing-and-registrations/sex-establishment-licence/>

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## **LICENSING ACT 2003**

### **EASTBOURNE BOROUGH COUNCIL DRAFT STATEMENT OF LICENSING POLICY 2019-2024**

Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4TW

[customerfirst@eastbourne.gov.uk](mailto:customerfirst@eastbourne.gov.uk)

Tel no: 01323 410000

**Draft Version**  
**Revised for the five year period from 2019**

Changes in Red

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## Executive Summary

In accordance with the revised Guidance from the Secretary of State, the Licensing Authority is required by the Licensing Act 2003 to produce every five years, a Statement of Licensing Policy, which sets out how it will exercise its licensing functions in respect of applications for the retail sale of alcohol, the supply of alcohol to members of a club, the provision of regulated entertainment and the provision of late night refreshment in the Eastbourne Borough area. The following is a summary of the key provisions of the Council's Statement of Licensing Policy.

The Policy explains the approach the Council intends to take in order to meet the four Licensing Objectives stated in the Act as follows:-

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

In the Policy, the Council recognises that longer, more flexible trading hours can contribute to easing crime and disorder problems by ensuring that large numbers of customers do not leave licensed premises at the same time.

This often helps reduce congestion at taxi ranks and late night fast-food outlets. The policy does not therefore set fixed trading hours, although the Council recognises that stricter conditions may be necessary in certain instances, for example with regard to noise, additional control mechanisms and conditions may need to be applied in more densely populated residential areas.

The Policy does not seek to artificially introduce staggered closing times. Shops and supermarkets will generally be permitted to sell alcohol at any time during their normal trading hours, unless there are very strong reasons for restricting those hours.

The Act gives licensed premises the opportunity to operate for longer periods. However, with these opportunities come additional responsibilities and the Council will have regard to its obligations under Section 17 of the Crime and Disorder Act 1998 when dealing with licensing applications. That law places a duty on the Council to do all it reasonably can to exercise its functions with due regard to the likely effect on crime and disorder, alongside the need to prevent it. The Policy also identifies that the Council will bear in mind its duties in relation to closure orders under the **Anti-Social Behaviour Crime and Policing Act 2014**. That power can be used if it is reasonably believed that a public nuisance is being caused by noise emanating from licensed premises, or premises subject to a temporary event notice where closure is necessary to prevent that nuisance.

The Council welcomes proposals that enhance the range of cultural and entertainment opportunities available to as wide a range of age groups as possible. It recognises that as part of implementing local strategies, proper account should be taken of the need to encourage and promote live music and dancing for the wider cultural benefit of the community, the Council seeks to encourage the provision of theatre and the dramatic and performing arts in the Borough.

The Council also welcomes proposals for the provision of regulated entertainment which does not involve the sale and supply of alcohol, or to which such sale and supply of alcohol is genuinely ancillary to an activity. The Council envisages that this offers a wider choice of entertainment to local residents, businesses and visitors.

The Council recognises the importance of the provision and variety of venues for entertaining young people. This can be a factor in reducing anti-social behaviour and youth related disturbances that cause problems for local residents and businesses. It welcomes proposals for the provision of regulated entertainment for persons under 18 years of age, subject to the necessary controls being put in place to safeguard children and young people.

The Council does not seek to limit the access of children to licensed premises, unless it is necessary for the prevention of harm. The wide range of premises that require licences means that children can be expected to visit many licensed venues for food or entertainment.

Crime and disorder associated with licensed premises can cause significant concern to licence holders, customers and the community. The Policy identifies key areas of concern, such as drugs, alcohol-related crime, under age sales and the inappropriate promotion of alcohol, which can lead to binge drinking. These are issues licence holders must consider as part of the application process, and throughout the currency of any licence or permissions.

The Policy considers the implications of nuisance on the local community and customers. This includes noise from the licensable activities, noise from those attending, smoking areas, vibration from the activity, noxious smells, light pollution, and accumulations of rubbish and litter.

The Policy outlines when conditions should be imposed and what is expected to be included in an Operating Schedule.

The Policy points out that in determining applications, the Council will consider each case on its individual merits.

The Council expects that in the majority of cases, it will not receive representations about the effect of an applicant's proposals on one or more of

the Licensing Objectives. In these cases, the Council will grant the licence subject to conditions which reflect the applicant's proposals and any mandatory conditions required by law.

Where the Council does receive relevant representations, it will seek to focus on the steps required to promote the particular Licensing Objective(s) which has given rise to the specific representation and avoid straying into undisputed areas. The Council will therefore grant the application, if it can do so, subject to such conditions considered necessary to promote the four Licensing Objectives and any mandatory conditions.

Such conditions will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Alternatively, the Council may decide to exclude a particular licensable activity or reject the application if it considers it necessary to do so to promote the four Licensing Objectives.

The Policy sets out the way that the Council will integrate the Statement of Licensing Policy with other national, regional and local strategies in order to promote the Licensing Objectives.

The Policy outlines how the Council intends to extend its joint enforcement protocol with Sussex Police, based on a risk assessment basis. The Council aims to co-ordinate inspections and the deployment of its enforcement resources. The Protocol also deals with our shared responsibility for enforcing the law in relation to the sale of alcohol to underage persons. The Council, in carrying out its duties in relation to regulatory inspections and enforcement, is mindful of the principles set out in the Hampton Review and the Better Regulation Delivery Office.

The Policy points out that the Council will expect premises to be properly controlled and managed by responsible operators. This should prevent or minimise problems being caused to any other groups involved in the licensing process, including residents. The Council will continue to work closely with the Responsible Authorities and other Partners to ensure legislation and local standards are met. It will intervene where the provision of licensable activities is carried on in a manner that does not promote the four Licensing Objectives, and falls into conflict with the Council's strategic aims and vision.

The Policy recognises that it will not be easy for the Council to reach a decision that satisfies everyone. A balancing exercise will be conducted to allow an operator to carry on licensable activities in such a way that those who would otherwise be affected by the operation are adequately protected. Alternatively, the Council may decide to exclude a particular licensable activity, or to reject the application if this is considered necessary to promote the Licensing Objectives.

However, it is hoped that all those involved in the licensing process will continue to work together in a spirit of co-operation and partnership that has existed since the Council became responsible for this area of licensing.

In this respect, the Policy states that regular liaison between licence/certificate/authorisation holders and local residents, local businesses and their representative organisations is to be expected.

## **1.0 Introduction and Purpose**

- 1.1 Eastbourne Borough Council (the Council) is the Licensing Authority under the Licensing Act 2003 (the Act) and is responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in the Borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.2 The Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' which sets out the policies the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.
- 1.3 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and Government Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act, as revised in April 2018.
- 1.4 Licensing is about the regulation of licensed premises, qualifying clubs and temporary events within the terms of the Act. Conditions, where attached to the various permissions, will focus on matters that are within the control of individual operators and others granted relevant permissions.
- 1.5 These matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises or places is ultimately a matter of fact to be decided by the Courts in cases of dispute.
- 1.6 In addressing such matters consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned.
- 1.7 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from

licensed premises and, therefore, beyond the direct control of the individual licensees. There are a range of mechanisms including:

- Planning controls
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority the provision of Closed Circuit Television (CCTV)
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- The confiscation of alcohol from adults and children in designated areas
- 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 and
- The power of the police, other Responsible Authorities, Ward Councillor or a local resident or business to seek a review of the licence or certificate in question.

1.8 The Licensing Authority expects every holder of a licence, certificate or permission to accept and be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises by taking appropriate measures and action consistent with that responsibility.

1.9 This Licensing Policy does not:

- undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits,
- Override the right of any person to make representations on an application, or seek a review of a licence or certificate, where the 2003 Licensing Act allows,

1.10 This Policy will be used as a basis in coming to consistent and transparent decisions in respect of licence applications.

1.11 The Licensing Authority has taken full account of the Guidance issued to it by the Secretary of State under Section 182 of the Licensing Act as revised in April 2018.

1.12 Where it is considered necessary to depart from that Guidance, the Licensing Authority will give its reasons for doing so. Additionally, in formulating this Policy, the Licensing Authority has had regard to a range of legislation, including the provisions of the Human Rights Act 2010, the Equality Act 2010, and has taken into account the provisions of the **Anti-Social Behaviour Crime and Policing Act 2014**.

## **2.0 Policy Consultation and Review**

2.1 The Policy should be re-published every 5 years. During the five year period, the policy will be kept under review, and may be revised if the Licensing Authority considers it appropriate. The previous policy was approved **in 2014**.

2.2 For example, where there has been feedback from the local community, Responsible Authority or someone else on whether the licensing objectives are being met. Before revising it or determining its Policy for any 5 year period, the Licensing Authority must consult with:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority's area;
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders;
- and
- persons/bodies representative of businesses and residents in its area.

2.3 The Licensing Authority shall foster ownership, co-ordination and partnership. It will involve partners from the Licensing Authority, including Planning, Environmental Health and Safety Authorities, the Police, the Fire Authority, Community Safety Partnerships, town centre managers, local business, local people and their representatives, local transport providers, and those involved in child protection. Consultation will also take place with entertainment and licensed business managers to encourage understanding and ownership of the Policy and good practice.

## **3.0 Fundamental Principles**

3.1 In carrying out its licensing functions, the Licensing Authority will aim to promote the four Licensing Objectives set out in Section 4 of the Act:

- the prevention of crime and disorder

- public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 3.2 This Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers.
- 3.3 The Licensing Authority will not take 'need' for premises into account when considering matters. This is interpreted for the purposes of this policy as the commercial demand for premises offering a particular type of licensable activity. 'Need' is not a matter that the Licensing Authority can take into consideration when discharging its licensing function. It is a matter for the local Planning Authority and for the market to decide.
- 3.4 Conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises, and the events concerned. Conditions will relate to the licensing objectives and will be restricted to matters within the control of individual licence holders.
- 3.5 Licence holders will be required to ensure compliance with any conditions attached to a licence. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 3.6 All relevant representations will be considered during the decision making process, unless they are considered to be frivolous, vexatious or repetitious.
- 3.7 Each application will be considered on its own merits. Nothing in this Policy will undermine the right of any individual to apply for the variety of permissions needed to operate or the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Licensing Act 2003.
- 3.8 Changes to statute, statutory instruments and case law may give rise to binding legal considerations that may appear to invalidate a part or parts of this statement. If this occurs, the policy overall is deemed to continue in effect, following the minimum amount of amendment. The requirement for a full consultation will be determined with reference to the material changes to the statement.

## **4.0 Local Features and Characteristics of the Borough**

- 4.1 Eastbourne is a thriving seaside town and a spectacular gateway to the South Downs National Park and beauty spot, Beachy Head. It has a resident population of approximately 102,465 persons.
- 4.2 Eastbourne has five miles of beaches, an extensive marina complex and over 4,000 acres of South Downs countryside. Tourism is crucial to this cosmopolitan area and is Eastbourne's primary industry.
- 4.3 One of the largest accommodation stocks in the South East, Eastbourne has approximately 7,500 bed spaces. The town stages a busy events programme which includes international tennis, theatre shows direct from the West End and an international four day air show, Airbourne, bringing over 800,000 visitors.
- 4.4 In addition, a 10 year Tourism Strategy seeks to secure investment in the town. It develops new marketing initiatives which will add new audiences for Eastbourne in the future, targeting 35+ age groups with higher spending capability.

## **5.0 Decision Making Process**

- 5.1 The types of applications covered by the Act and relevant to this policy are:
  - Personal licences
  - New Premises licence applications
  - Provisional statements
  - Full and Minor Variations to Premises Licence
  - Transfers
  - Temporary Event Notices
  - Interim Authorities
  - Reviews
  - Club Premises Certificates
  - Matters involving the Designated Premises Supervisor
- 5.2 Licensing decisions and functions may be taken or carried out by the appropriate Licensing Committee of Eastbourne Borough Council, except for those relating to the making of a Statement of Licensing Policy, or delegated to the Licensing Sub-committee, or in appropriate cases to Officers of the Authority.

5.3 Many of the decisions will be largely administrative and it is anticipated that they will be made by Officers, in the interests of speed, efficiency, and cost effectiveness.

5.4 The terms of delegation of licensing functions are set out below.

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Sub-committee</b>	<b>Officers</b>
Application for personal licence		If a police or Home Office objection	If no objection notice is given by the police or Home Office.
Decision whether to suspend or revoke a personal licence		All cases	
Application for personal licence With unspent convictions		If a police objection	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or all representations made are withdrawn
Application for provisional Statement		If a relevant representation made	If no relevant representation made or all representations made are withdrawn
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or all representations made are withdrawn
Application to vary designated premises supervisor		If a police or Home Office objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police or home office	All other cases

		objection	
Application for interim authorities		If a police or home office objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Minor variation			All cases
Determination of a police objection to a temporary event notice		All cases	

5.5 The power to grant licences and permissions includes the power to renew, vary, refuse, suspend or revoke such licence or permission and the power to impose conditions.

5.6 The role of the Licensing Authority is primarily to regulate the carrying on of licensable activities. It recognises the differing specific interests of those involved in the licensed trade, the carrying out of those activities and their likely impact. The Licensing Authority is keen to ensure that the licensing objectives are promoted, taking account of the wider interests of the community.

## 6.0 Integration and the Promotion of Other Strategies

6.1 The Licensing Authority shall secure the proper integration of this Policy with local crime prevention, planning policy, transport, tourism and cultural strategies by undertaking a range of functions including:-

- Liaising and consulting with the East Sussex Fire & Rescue Service;
- Liaising and consulting with the Local Strategic Partnerships, Safety Advisory Groups and other Community Safety Partnerships;
- Liaising and consulting with the Planning and Highways Authority;

- Liaising and consulting with tourism, stakeholder groups, such as the Business Forum and the economic development functions for the Council;
- Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols;
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice;
- Liaising and consulting with the Sussex Police, Community Safety Partnerships and following the guidance in community safety and crime and disorder strategies;
- Having regard to local and national strategies to promote safer socialising, responsible drinking and alcohol treatment services.

6.2 The Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, in line with statutory requirements and the Council's Equality and Fairness Strategy. This includes communities of interest such as; disabled people; racial and ethnic groups and faith groups.

6.3 The Policy supports the Eastbourne Tourism Strategy. It recognises the benefits for the local economy of creating a safe and more attractive town centre. The Licensing Committee may receive any reports relevant to the needs of the local economy for the area in order to ensure that it considers all relevant matters. It may also receive information relating to the employment within the Borough, and the demand for new investment and employment where appropriate.

## **7.0 Other Regulatory Regimes and Avoidance of Duplication**

7.1 This Policy avoids duplication with other regulatory regimes wherever possible. The following are generally considered under separate regimes:

- Health and Safety: Certain premises will be the subject of health and safety enforcement by the Local Authority or the Health and Safety Executive (HSE). If other existing law already places certain statutory responsibilities on an employer or operator of premises, for example the Management of Health and Safety at Work Regulations 1999, it will not be necessary to impose the same or similar duties on the premises licence holder or club under the Licensing Act 2003.

7.2 However, existing duties will not always adequately cover specific issues that arise on the premises in connection with, for example, certain types of entertainment. Additional conditions or supplementary measures may be considered appropriate to effectively promote the licensing objectives.

- Fire Safety: Premises and their operators must have regard to current fire safety regimes and the Regulatory Reform (Fire Safety) Order 2005.
- Food Hygiene: Licensed premises engaged in a food business will be registered and subject to risk-based food hygiene inspections by the Council's Specialist Advisors.
- Noise: Statutory and Public nuisances are dealt with by the Council's Specialist Advisors and Customer Case Workers under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may often fall under this regime in addition to closure powers as set out in other legislation designed to control the conduct of licensed premises.
- Public Sector Equality Duty: requires public authorities, in the exercise of their functions, to have due regard to the need to: eliminate unlawful discrimination, victimisation and harassment; advance equality of opportunity; and foster good relations between people who share a relevant protected characteristic and those who do not share it. The local authority has a written statement in regard to these obligations which this Statement of Licensing Policy has taken account of.
- Community Relations: Integration of corporate strategies with the Policy recognises the Council's role, as a community leader, to promote community cohesion and good relations between diverse communities.
- Anti-social Behaviour, Crime and Policing Act 2014: Provides that if the noise from any licensed premises is causing a public nuisance, an authorised Officer has the power to issue a closure order in respect of it effective for up to 24 hours. This complements the Police powers under the act to close licensed premises for temporary periods for violent or disorderly conduct.
- Litter and Smoking: Authorised Officers of the Council have powers to enforce premises operators' responsibilities under smoke free legislation and duties to keep external areas clear of litter.
- Equality Act 2010: Applicants for new premises, or for variations involving changes to the layout of premises, must have regard to this legislation.
- Gambling Act 2005: Where the principal purpose is gaming, the sale of alcohol and the provision of entertainment in such premises is

generally incidental to gaming. However, in some instances, permissions may be required under the Licensing Act. Applicants will have regard to the licensing objectives of both regimes, but duplication of conditions will be avoided where possible.

- Planning: The Licensing Authority will not duplicate matters considered as part of a planning application. Licensing decisions will take into account any relevant planning decisions and will not normally cut across this. It is for individuals to ensure that they have the relevant planning permission in place before trading.

## **8.0 Cumulative Impact**

- 8.1 The impact of the number, type and density of licensed premises in a given area may lead to problems of noise, nuisance, crime and disorder outside of, or a distance from licensed premises. Cumulative Impact is defined as the “potential impact upon the Licensing Objectives of a significant number of licensed premises concentrated in an area,” and is a proper matter for consideration by the Licensing Authority.
- 8.2 The Licensing Authority may receive representations from a Responsible Authority or someone else that the cumulative effect of licences is leading to an area becoming saturated. This creates exceptional problems of disorder and nuisance, over and above the impact from individual premises which undermines the promotion of one or more of the licensing objectives.
- 8.3 This should not be confused with “need” which relates to the commercial demand for a particular type of operation in an area. “Need” is a matter for the market to decide, and does not form part of this Policy.
- 8.4 In July 2007, the Licensing Authority determined that the concentration of licensed premises in a specified area of the town centre causes crime, disorder and public nuisance. In 2007, it was agreed that this area should be subject to Cumulative Impact Policy.
- 8.5 The absence of a Cumulative Impact Policy in an area does not prevent any Responsible Authority or any other person making representations in respect of an application for a new or variation to a premises licence. This could be on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Policy applies to all new and variation applications under the Licensing Act 2003, and can be applied to a wide range of premise type, including where alcohol is to be made available either on or off the premises, and late night refreshment houses.

- 8.6 In reaching decisions regarding cumulative impact, the Council will have regard to other mechanisms falling outside of the licensing regime which may also be available to address this issue, including;
- Planning controls, where development or change of use is involved, or where trading hours are limited by planning controls;
  - Police enforcement of the law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices.
  - The prosecution of any personal licence holder or member of staff at such premises which is selling alcohol to people who are drunk or under the age of eighteen.
  - Police and Council powers to instantly close for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
  - The power of the Police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate in question at any time.
- 8.7 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, therefore, beyond the direct control of licensed site or operator. The Licensing Authority will primarily focus on the direct impact of the activities taking place at or immediately outside the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 8.8 The Licensing Authority will not impose 'blanket' standard conditions on granted licences, save for the Mandatory Licensing Conditions covered by the Act. Conditions attached to licences shall be on a case by case basis, tailored to the individual styles and characteristics of the premises and events concerned.
- 8.9 Conditions will be used to reflect the circumstances and needs of any particular operation insofar as they are necessary for the promotion of one or more of the four licensing objectives. Many conditions supporting these objectives arise from the applicants' Operating Schedule and will be incorporated in licences as a matter of course.
- 8.10 With effect from 6 April 2018, the Policing and Crime Act 2017 introduced the concept of cumulative impact assessments into the Licensing Act 2003 by inserting into the Act a new section 5A.
- 8.11 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and

leading to problems which are undermining the licensing objectives. CIA's relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

- 8.12 At the current time the licensing authority has published a Cumulative Impact Policy as there was an evidential basis on which to base such a decision in 2014.
- 8.13 If the licensing authority were to alter or remove the publication of a CIA in the future, it would do so in accordance with the requirements of section 5A of the Licensing Act 2003 and with regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

## **9.0 Trading Hours**

- 9.1 The Licensing Authority recognises that longer, more flexible licensing hours can contribute to easing crime and disorder by avoiding large concentrations of customers leaving premises simultaneously. This, in turn, reduces congestion and potential conflict at other locations, for example, taxi ranks and fast food outlets.
- 9.2 This Policy does not set fixed trading hours and does not seek to artificially introduce staggered closing times. The Council will consider each particular case on its merits having regard to representations, including:
- Are the licensed activities likely to cause an adverse impact on local residents and businesses, for example crime, noise and disturbance. If there is potential to cause an adverse impact, what, if any, measures will be put in place to prevent it;
  - Will there be a substantial adverse increase in the cumulative impact from these or similar activities, on adjacent residential areas;
  - Is there a suitable level of public transport and taxi/private hire provision accessible at the appropriate times to facilitate dispersal of patrons;
  - The representations of the Police, or other relevant agency or representative.
- 9.3 The Licensing Authority will closely scrutinise extended hours applications to ensure that the Licensing Objectives are met.
- 9.4 The Licensing Sub-Committee may decide that the circumstances are such that a restriction on hours is the only appropriate means to promote the Licensing Objectives.

9.5 It will be the normal Policy of the Licensing Authority to allow shops, and supermarkets to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there is evidence for restricting hours.

## **10.0 Mandatory Licensing Conditions**

10.1 **The Licensing Act 2003 (Mandatory Conditions) order 2014** sets out the mandatory licence conditions relating to irresponsible marketing of alcohol that apply to all licensed premises and those with a club premises certificate. These conditions include:

- Ban irresponsible promotions;
- Ban the dispensing of alcohol directly into the mouth;
- Selling or supplying alcohol in association with promotional posters or flyers
- Provision of free or discounted alcohol as a prize to reward purchase of alcohol over 24 hour period
- Ensure that customers have access to free tap water so that they can space out their drinks and not get intoxicated too quickly.
- Require an age verification policy to be in place to prevent underage sales; and
- Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.

10.2 Substantially similar activities to those described are also prohibited.

10.3 In respect of on-trade premises, such as a pub, hotel or bar, or a member's club, all five conditions apply. In the case of off-trade premises, such as an off-licence or supermarket, then only the conditions relating to age verification apply.

10.4 The legislation makes clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children."

10.5 If there is any doubt as to whether the promotion planned falls foul of the mandatory conditions, operators are advised to discuss proposals with Eastbourne Borough Council and/or Sussex Police beforehand.

## **11.0 The Operating Schedule**

11.1 The Operating Schedule sets out how the premises propose to operate when carrying on licensable activities. It also enables the Licensing

Authority, any Responsible Authority or any other person to assess whether the steps taken to promote the licensing objectives are satisfactory. It must include the following information:

- the licensable activities to be carried out and whether these are on or off the premises
- the proposed hours during which the relevant licensable activities are to take place
- the proposed hours that the premises are to be open to the public
- the duration of the licence (if it is to have a fixed term)
- details of who is to be the designated premises supervisor if the licensable activities include the sale or supply of alcohol
- where alcohol is to be supplied, whether the supplies are proposed to be for consumption on and/or off premises
- Details of the type of any regulated entertainment to be provided
- The Operating Schedule, detailing the steps the applicant proposes to take to promote the Licensing Objectives

11.2 The Licensing Authority will seek to ensure that licensed premises are designed and run in a way which promotes the licensing objectives. Applicants are advised that Operating Schedules should be considered by professional experts in the relevant field and that applicants consult with all Responsible Authorities when Operating Schedules are being prepared. This may limit opportunities for dispute and negate the need for hearings.

11.3 In order to minimise representations and the necessity for hearings, applicants are advised to consult with all Responsible Authorities when preparing an Operating Schedule.

11.4 Operators of licensed premises will have to comply with a variety of other regulatory regimes including; planning, environmental health, fire safety, licensing and building control legislation when opening or adapting licensed premises.

11.5 The Council will seek to avoid confusion and duplication by not imposing licence conditions relating to matters that are regulated under other legislation, except where they can be exceptionally justified to promote the Licensing Objectives.

## **12.0 Prevention of Crime and Disorder**

12.1 In the Operating Schedule, the Licensing Authority will require the applicant to detail the steps proposed to ensure the deterrence and prevention of crime and disorder, on and in the vicinity of the premises. This should also take account of the location, character, condition, the

- nature and extent of the proposed use and the persons likely to frequent the premises.
- 12.2 The Licensing Authority will require the licence holder to take all reasonable steps to promote responsible drinking, and put mechanisms in place to control excessive consumption of alcohol, under age sales and drunkenness on licensed premises.
- 12.3 This reduces the risk of anti-social behaviour occurring on the site and elsewhere after customers have left the premises.
- 12.4 In considering licence applications, the Licensing Authority will have regard to:
- (i) The physical security features installed in the premises including: design and layout of the premises in minimising the opportunities for crime and conflict, provision of CCTV and associated recording equipment, display of crime prevention material raising patrons awareness of crime, noise, nuisance and safety issues, adequate lighting levels in the premises, metal detection and search facilities, the use of toughened /shatterproof and plastic drinking vessels within the area covered by a premises licence.
  - (ii) Procedures for risk assessing promotions such as 'happy hours', and cheap drink promotions which may contribute to the impact on excessive alcohol consumption as well as associated crime and disorder, and plans for minimising such risks. This will need to be considered in conjunction with the mandatory licence conditions.
  - (iii) The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
  - (iv) Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.
  - (v) The likelihood of any violence, public order or policing problem if the licence is granted.
  - (vi) The measures taken to control admission to the premises, including the use of Security Industry Authority (SIA) licensed door supervisors.
  - (vii) Any other such measures as may be appropriate, including; participation in a local Pubwatch or Nightwatch scheme, or other body designed to ensure effective liaison and partnership with the

local community, the use of 'music wind-down policies' and 'chill out areas' .

(viii) Measures to effectively control the premises during key events, for example; during sporting events, during Freshers Week, Airbourne and other significant times.

(ix) Other examples of industry Best Practice.

(x) Any representations made by the Police, or other relevant agency or representative.

(xi) Steps taken to train staff in licensing law and raise awareness of issues in relation to licensed premises, including; excessive consumption of alcohol, underage and proxy sales of age restricted products, drug misuse and associated crime prevention strategies.

- 12.5 Where applicable, applicants must show that they can comply with the Home Office guidance in relation to the control of illegal drugs on their premises. They shall also adhere to the protocol with the Police on the handling of illegal drugs found on their premises.
- 12.6 The Licensing Authority expects that the Designated Premises Supervisor (DPS) will spend a significant amount of time on the licensed premises. When not on the premises, it is essential that the DPS is contactable, has given their written consent and has left a competent, authorised person in charge to act in their absence. It is expected that this person, will normally be a personal licence holder.
- 12.7 The Licensing Authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence, disorder and nuisance are occurring so it can take full account of the facts and avoid exacerbating problems.
- 12.8 Where licensed premises are found to cause nuisance or be associated with disorder, unreasonable disturbance, powers of revocation or the imposition of conditions may be considered. Conditions may include:
- The installation and use of CCTV and associated recording equipment to a standard specification
  - Inclusion of a drugs and search policy of customers
  - The use of SIA registered door supervisors
  - Earlier closing times or last admissions time
  - Action Plans for premises failing to meet the required standards
  - Closure Orders
  - Review and revocation proceedings

- Use of other mechanisms to effectively control an area where there is alcohol related crime and disorder, including powers under the Violent Crime Act 2006.

12.9 Such action to restrict the operation of sites in order to promote the licensing objectives may be taken for trial periods to allow businesses an opportunity to remedy existing instances of disorder, nuisance and/or disturbance.

### **13.0 Public Safety**

13.1 The Licensing Authority will require the applicant to detail the steps taken to address the issue of public safety in the relevant licensed premises or place.

13.2 Conditions may be imposed in accordance with Operating Schedule to protect public safety including:-

- Specified maximum occupancy limits on the premises licence or certificate where considered necessary for the promotion of public safety or the prevention of crime and disorder.
- Provision of CCTV and associated recording equipment installed to a standard specification
- Use of shatterproof drinking vessels and bottles, requiring the use of toughened glass or plastic throughout the licensed premise.
- The use of SIA Registered Door Supervisors, and a requirement of a minimum of such, namely 1 per 100 customers where the event is attended by persons over 18 and 1 per 50 customers where the event is attended predominantly by persons under 18.
- The provision of designated and suitably qualified and trained first aiders.
- Strategies to prevent binge drinking and promote 'safer socialising' and responsible drinking.
- Systems in place to prevent the theft of items and 'spiking' of drinks.
- SIA Registered Door staff to maintain order inside and outside venues, protecting customer safety as well as participation in Nightwatch/ Pubwatch schemes to alert Police and other venues where customers and staff are perceived to be at risk
- The provision of chill out rooms/quiet areas to allow patrons to relax and unwind.

13.3 The Council would expect relevant places or premises to have carried out a risk assessment with regard to the promotion of the Licensing Objectives. A separate Fire Risk Assessment should also be undertaken to ensure that any protective and preventive measures identified are taken to ensure the safety of any relevant persons. This may include the

provision of fire-fighting equipment, emergency lighting and an appropriate means of raising the alarm in the event of an emergency. Applicants and responsible persons should make themselves aware of the Regulatory Reform (Fire Safety) Order 2005.

- 13.4 The Licensing Authority may review what measures are in place to aid the dispersal of patrons in a quick and safe manner in order to avoid opportunities for disorder and disturbance. This may include the availability of taxis, location of taxi ranks and other late night transport systems, as well as the use of registered staff to control queues and external areas.
- 13.5 Where appropriate, licence holders or their authorised representatives will attend Safety Advisory Group Meetings and other planning meetings prior to large scale events which take place within licensed premises and/or in an open space. Applicants should have regard to relevant guidance and publications.
- 13.6 Prior consent will be required for; performance of stage Hypnotism, fireworks and lasers. Applications should contain details prescribed by the Licensing Authority. Conditions may be applied to any consent.

#### **14.0 Prevention of Public Nuisance**

- 14.1 The Licensing Authority will require operators to demonstrate how matters will be addressed to limit public nuisance, prevent disturbance and protect amenities.
- 14.2 In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for noise, nuisance and anti-social behaviour.
- 14.3 Amplified music or other entertainment noise from within the premises shall be inaudible within any residential premises. The test for compliance with 'inaudibility' will be that noise should be no more than barely audible outside of nearby business and residential properties.
- 14.4 The Licensing Authority will take into consideration a range of issues, and consider the imposition as appropriate of conditions, including:
- The proximity of residential accommodation.
  - The type of use proposed, including the likely numbers of customers, proposed hours of operation, nature of regulated entertainment and the frequency of activity.

- Steps taken or proposed to be taken to prevent noise, disturbance and vibration breaking out from the premises. This may include music, noise from ventilation equipment, and human voices.
- Steps taken to prevent disturbance by customers arriving at or leaving the premises will also need to be detailed. This will usually be of greater importance between 10.30 p.m. and 7 a.m. than at other times of the day.
- The steps taken or proposed to be taken by the applicant to prevent customers queuing. If queuing is inevitable, then queues should be diverted away from neighbouring premises and residential accommodation or be otherwise managed to prevent disturbance or obstruction.
- The steps taken to ensure staff and customers leave the premises quietly, including the provision of appropriate “leave quietly” signage.
- Arrangements made or proposed for parking by customers specific to the licensed premises where relevant, and the effect of parking by patrons on local residents.
- The provision for public transport in the locality, including taxis and private hire vehicles for customers to facilitate dispersal.
- The level of likely disturbance from associated vehicular movement.
- The delivery and collection areas and delivery/collection times.
- The siting of external lighting, including security lighting which may cause light pollution and/or disturbance to neighbouring properties.
- The impact on refuse storage and litter.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present premises licence operators.
- The history of the applicant in controlling anti-social behaviour and preventing nuisance.
- The generation of odour, e.g. from the preparation of food.
- Any other relevant activity likely to give rise to nuisance.
- Any representations made by the Responsible Authorities or other relevant agency/representative.
- The use and control of gardens and other open-air areas.

#### 14.5 Such measures may include:

- Keeping windows and doors shut save for access and egress.
- The installation of soundproofing, air conditioning, acoustic lobbies, acoustic devices and sound limitation devices.
- Operators to undertake regular checks and assessments in the vicinity of the premises and take steps to limit disturbance and noise breakout
- Limiting the number of patrons at any one time in any external areas, particularly where it is in close proximity to residential accommodation.

## **15.0 Protection of Children from Harm**

- 15.1 The Licensing Authority will require the details and measures taken in relation to the protection of children from harm. This includes moral, psychological and physical harm which may be associated with licensed premises and certificated club premises. This may include exposure to strong language and sexual expletives, in the context of film exhibitions or where adult entertainment or material is provided.
- 15.2 It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed, without restricting conditions unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely.
- 15.3 It is recognised by the Licensing Authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the Licensing Authority recommends that all operators should implement a suitable 'Proof of Age' scheme, for example 'Challenge 25' and ensure that appropriate photographic identification is requested prior to entry and when alcohol is requested by a person appearing to be under the age of 18.
- 15.4 Appropriate provenance forms of identification are currently considered to be those recommended by the Police, Licensing Authority, and Trading Standards Officers.
- 15.5 The Licensing Authority expects that all staff responsible for the sale of intoxicating liquor receive information and training on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales and proxy purchasing.
- 15.6 The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. Each application will be considered on its own merit.
- 15.7 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchases and to assist in the protection of children from harm, the Licensing Authority supports the following measures:-
- Police to exercise powers to remove alcohol from young people on the street as well as the implementation of Dispersal Orders.
  - Test purchasing operations and the carrying out age challenges to reduce underage drinking in pubs and licensed venues.

- Further take-up of proof of age schemes will be promoted, for example “Challenge 25.”
- In-house, “mystery shopper” type schemes operated by local businesses will be supported.
- Providers of licensed events specifically catering for persons under the age of 18 should consider the ratio of SIA accredited Supervisors to children, normally 1:50 to assist in the control and supervision of events, and whether all staff at such events need to be Criminal Record Bureau checked.
- Measures to prevent proxy purchase of alcohol.

15.8 The following areas give rise to concern in respect of children, who will normally be excluded from premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided;
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons.

15.9 The Licensing Authority may consider the following:-

- limitations on the hours when children may be present;
- age limitations as required by mandatory condition, for example film exhibitions;
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

15.10 Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. The Licensing Authority recognises the Children, Families and Schools Section as being competent to advise on matters relating to the protection of children from harm.

15.11 Applicants shall copy their applications to the Local Safeguarding Children Board (LSCB) in its capacity as the Responsible Authority.

15.12 The Licensing Authority will expect Operating Schedules to specify the measures and management controls in place to prevent alcohol being served or supplied to children, other than in those limited circumstances permitted by the Licensing Act 2003.

## **16.0 Sex Establishment Policy**

16.1 The Council has a Sex Establishment Policy and this can be found on the Council's website.

## **17.0 The Health Act 2006 & Associated Smoke Free Issues**

17.1 Since the introduction of Smoke free legislation under the Health Act 2006 on the 1st July 2007, Environmental Health have received an increase in the number of noise complaints concerning noise from people smoking outside of licensed premises. This includes noise from people congregating on the public highway, and from outside areas which form part of the licensed premises for example beer gardens. This is in addition to noise breakout as people enter and leave premises to smoke.

17.2 In addition to the increase in complaints, licence variations have been received to vary the use of outdoor areas to incorporate a smoking area and/or erect a smoking shelter. Environmental Health, in conjunction with the Council's Smoke free Lead Officer, will assess each application on its merits and may; where the matter forms part of an area or activity governed by the Licensing Act 2003, make representations as appropriate.

17.3 Applicants considering the provision of a smoking area and/or shelter should consider reasonable controls to minimise the noise impact and could include the following steps:

- Develop a management plan on how to manage smoking on the premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented.
- Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas
- Ensure that any structures used by smokers comply with the design criteria and requirements detailed in the Health Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with.
- Consideration is given to the siting of any smoking areas, to protect against the potential of second hand smoke drifting back into the

premises or adjacent properties so as not to cause a nuisance to patrons and neighbours.

- Signage in the designated areas asking customers to keep noise levels to a minimum.
- Consideration given to the availability, type and siting of litter bins to cater for smoking related litter.
- Conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence, applicants may find it necessary to request a variation of the premises licence.
- Any tables and chairs on the Public Highway require a tables and chairs licence under the provisions of the Highways Act 1980. Again these licences may have conditions restricting the times that the area can be used.
- Controls on drinks, glasses and bottles being removed from the premises.
- Steps to discourage smokers from remaining in gardens and outdoor areas, including conditions on the premises licence or the premises management policy may include a requirement that drinks are prohibited in outside areas, or prohibited after a certain time.
- A system could be introduced that after a certain time the number of smokers outside are restricted to a maximum number.
- Staff positioned on the doors can help to encourage customers not to cause a noise problem.

## **18.0 Premises Licences**

18.1 An application for a premises licence under the Licensing Act 2003 must be made in the prescribed form to the Licensing Authority. The application must be accompanied by:

- The required fee,
- An Operating Schedule,
- 2 plans of the premises in a prescribed form, including any external areas,
- Copies of the appropriate certificates
- If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the Designated Premises Supervisor (DPS). This person will normally have been given day to day responsibility for running the premises by the premises licence holder and the person through whom all alcohol sales are authorised.

18.2 The Licensing Authority of the Council has a helpful booklet, "Licensing Act 2003: A Guide," and a comprehensive website to assist applicants.

## **19.0 Planning Permission**

- 19.1 The Licensing Authority recognises that planning, building control and licensing regimes should be properly separated.
- 19.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent already in place for the property concerned.
- 19.3 The Licensing Authority recognises that Licensing applications should not be a re run of the planning process, and should not cut across decisions taken by the Local Authority Planning Committee or following appeals against decisions taken by that Committee.
- 19.4 Similarly the granting by a Licensing Sub Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control or other consents where appropriate.
- 19.5 Proper integration should be assured by the Licensing Committee, where appropriate, by providing regular reports to the Planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.

## **20.0 Applications for Personal Licences**

- 20.1 A personal licence is issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.
  - (a) The applicant is aged 18 or over
  - (b) The applicant is entitled to work in the United Kingdom
  - (c) The applicant possesses a licensing qualification or is a person of a prescribed description
  - (d) The applicant has not forfeited a personal licence in the five year period prior to their application being made
  - (e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty
- 20.2 The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above. Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a

notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days, give the licensing authority a notice to that effect. Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.

- 20.3 Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.
- 20.4 At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
  - The duty to promote the crime prevention objective
  - The objection notice given by the Police or Home Office
  - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
  - The seriousness of the relevant offence
  - The sentence or penalty imposed on the applicant for the relevant offence.
- 20.5 If, having considered all of the circumstances, the licensing authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.
- 20.6 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing authority will therefore record in full the reasons for any decision that it makes.

## **21.0 Personal Licences – Suspension and Revocation**

- 21.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.

- 21.2 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.
- 21.2 The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.
- 21.3 The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.
- 21.4 If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 21.5 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 21.6 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and

- decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 21.7 If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.
- 21.8 Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.
- 21.9 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.
- 21.10 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 21.11 In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
  - The duty to promote the licensing objectives
  - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
  - The seriousness of the relevant offence
  - The sentence or penalty imposed on the licence holder for the relevant offence
  - Any representations made by the Police or Home Office Immigration Enforcement
  - Any representations made by the holder of the licence

- Any evidence as to the previous character of the holder of the licence

21.12 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.

21.13 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

21.14 The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions

## **22.0 Immigration Act 2016 – Entitlement to Work**

22.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

22.2 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.

22.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;

- Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
- Immigration offences, including civil penalties, are 'relevant offences' as defined by the 2003 Act;
- The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

22.4 The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.

22.5 The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and West Mercia Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

### **23.0 Live Music Act 2012 and other Entertainment Licensing Deregulation**

23.1 The Live Music Act 2012 came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:

- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises
- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- unamplified 'live' music between 8am and 11pm in all venues
- the provision of entertainment facilities

- 23.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.
- 23.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will inevitably be a degree of judgment as to whether a performance is live music or not, so organisers are encouraged to check with the licensing authority if in doubt.
- 23.4 There was a further deregulation of entertainment licensing in June 2013 when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 08:00-23:00 on any day:
- a performance of a play in the presence of any audience of no more than 500 people
  - an indoor sporting event in the presence of any audience of no more than 1000 people
  - a performances of dance in the presence of any audience of no more than 500 people
- 23.5 Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014, which came into force on 6 April 2015.
- 23.6 The 2014 Order deregulated entertainment licensing in the following ways: The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises became exempt from entertainment licensing between 08.00-23.00 on the same day, with no audience limit.
- The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day was raised from 200 to 500.
  - Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.
  - Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500.

- Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit.
- Greco-Roman and freestyle wrestling are now deregulated between 08:00-23:00 for audiences of up to 1000 people.
- An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt now from licensing.

23.7 The exhibition of films in community premises has also been deregulated as a result of section 76 of the Deregulation Act 2015.

23.8 No licence is required for an exhibition of film on community premises between 08:00 and 23:00 on any day provided that:

- the film entertainment is not provided with a view to profit;
- the film entertainment is in the presence of an audience of no more than 500 people;
- the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
- a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

## 24.0 Temporary Event Notices

24.1 A temporary event notice (TEN) is required if you wish to hold an event, involving less than 500 people, at which one or more licensable activities will take place that are not authorised by an existing premises licence or club premises certificates.

24.2 A TEN is a notification to the licensing authority that an individual intends to carry on licensable activities for a period not exceeding 168 hours or 7 days.

### 24.3 Who can give a TEN:

- A TEN can be given by any individual aged 18 or over, but cannot be given by a business or organisation;
- The individual giving the notice is 'the premises user';
- An individual who holds a personal licence under the Licensing Act 2003 may give up to 50 TENs in any calendar year, up to 10 of which may be 'late' TENs;
- Individuals not holding a valid personal licence are restricted to 5 TENs in any calendar year, up to 2 of which may be late TENs;
- Standard and late TENs, in any combination count towards these overall total limits for TENs;
- A TEN which relates to an event taking place within 2 calendar years counts against the limits for that individual in respect of both calendar years;
- A maximum of 15 TENs can be given in relation to the same premises in any calendar year; and
- Any premises cannot be used for activities authorised by TENs for more than 21 days in any calendar year.

24.4 The notice has been given on the licensing authority (or licensing authorities where the premises is situated in more than one authority area), with copies to the police and the local authority exercising environmental health functions - This must normally be done no later than 10 working days prior to the proposed event although there is provision for a limited number of late TENs to be served up to 5 working days, but no earlier than 9 working days, prior to the event.

24.5 A TEN can be sent electronically to the licensing authority which will forward it to the police and local authority exercising environmental health functions by the end of the working day after which the TEN was received.

24.6 The prescribed form of a TEN must be used and all required information provided. There must be a minimum of 24 hours between event periods in relation to the same premises.

24.7 On receipt of a TEN, the licensing authority must acknowledge receipt of the notice before the end of the first working day after the day of receipt (or the day after where the TEN is served on a weekend day).

24.8 The police and local authority exercising environmental health functions (relevant persons) have three working days to give an objection to a TEN where they consider that the proposed activities will undermine a licensing objective.

- 24.9** The objection notice must give reasons for the objection and must be given to the licensing authority, other relevant persons and the premises user.
- 24.10** In the case of a standard TEN, where an objection is received, the licensing authority must hold a hearing to consider the matter unless all parties agree that no hearing is necessary. The licensing authority must send a counter notice to the premises user if it considers it appropriate for the promotion of a licensing objective. In the case of late TENS, the licensing authority must issue a counter notice if objections are received from the police or local authority exercising environmental health functions.
- 24.11** Organisers of temporary events are strongly advised to contact the Licensing Authority and other appropriate agency for advice at the earliest opportunity when planning events. This may avoid any unnecessary objections being made that may arise from misunderstandings or confusion concerning the proposed event.

## **25.0 Appeals**

- 25.1** Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 to the Licensing Act 2003. Appeals must be made to the Magistrates' Court and made within 21 days beginning with the day on which the Appellant was notified of the Council decision. An appeal can be made by any party involved in the decision. This includes applicants, Responsible Authorities and anyone else.
- 25.2** The Act also covers appeals in relation to temporary event notices, personal licences and closure orders. In relation to temporary event notices, premises users may appeal against the decision by a Council to give a counter notice. Applicants for personal licences may appeal against the decision to reject an application for or application to renew a licence. Where the Police lodge an objection notice to the grant or renewal of a personal licence and the Council grants or renews the licence, the Police may appeal.

## **26.0 Problem Premises**

- 26.1** The Council expects licensed premises to be properly controlled and managed by responsible operators. This should prevent or minimise problems to any of the other groups affected by it, including residents and businesses in the vicinity, as well as Responsible Authorities.
- 26.2** However, legitimate concerns will sometimes be raised about particular operations. In those instances the Council will encourage the individuals

- or groups affected to raise those concerns directly with the operator in the first instance. In the Council's experience this approach can often be successful as the operator may not be fully aware of the problems and can introduce changes to improve the situation.
- 26.3 Where concerned individuals or groups do not wish to approach operators directly (perhaps fearing abuse or reprisals,) the Council will approach the operator to discuss the concerns and seek improvements, if required.
  - 26.4 The Council works closely with Responsible Authorities and will intervene at an early stage where it is found that the provision of licensable activities is being carried on in a manner which does not promote the four Licensing Objectives.
  - 26.5 The Council expects all licensees to co-operate with the agencies concerned and to deal promptly and properly with the concerns raised. Where a premises fails to meet the required standards or comply with legislation, they may be placed on an "Action Plan" or face prosecution proceedings.
  - 26.6 The Council has a joint enforcement protocol with Sussex Police on enforcement and inspection issues to provide for the efficient and effective deployment of its staff and police officers in enforcing licensing law. This includes the targeting of resources where 'hotspot' crime and disorder premises and/or areas have been identified.
  - 26.7 When necessary, the enforcement action will be taken in accordance with the principles of Eastbourne Borough Council's Enforcement Policy.
  - 26.8 The Council recognises that once away from premises a minority of consumers will behave badly and unlawfully. However, 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, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
  - 26.9 However, the Council recognises that there are mechanisms both within and outside of the licensing regime that are available for addressing such issues. These are detailed within points 12.0 - 15.0 of this policy.
  - 25.10 The Council does not seek to prevent any individual or group from using the formal procedures for review of a premises licence or club premises certificate. Neither does it seek to constrain the powers of the police to close premises where they consider it necessary to do so in the interests of public safety or to prevent a public nuisance.

**26.11** However, the Council believes that by working in partnership with all the groups involved in the licensing process the formal review procedures and exercise of the police powers to close premises should be instituted in general after voluntary measures have been attempted.

## **27.0 Enforcement Policy**

**27.1** Premises that; generate disorder, threaten public safety, generate public nuisance or pose a risk to the wellbeing of children will be targeted for enforcement action. Action will be focused on those responsible at the premises for its management.

**27.2** The Council has an established Enforcement Policy based around the principles of consistency, transparency and proportionality in accordance with the Regulators Compliance Code.

**27.3** A graduated response will be taken where offences against legislation are found, or where premises licence conditions have been breached. The action taken may range from verbal advice, written warnings, placement of the premises on an Action Plan and/or Formal Caution. Enforcement action may include prosecution proceedings.

**27.4** Enforcement action is generally progressive. This does not prevent the Licensing Authority or any of the other enforcement Partners, taking more robust action where it is considered appropriate.

**27.5** The Licensing Authority will seek to work with the Police, East Sussex Fire and Rescue Service and Trading Standards and other enforcement partners in the enforcement of licensing and other legislation.

**27.6** Enforcement will be focused on premises or persons found to be failing to promote the Licensing Objectives and/or those where it is identified that premises or persons are failing to meet Council standards.

**27.7** Attention is drawn to the targeting of agreed problem and high risk premises which require greater attention. A number of other Council and government policies, strategies and guidance documents must also be taken into account to complement the policy, including:

- Community Safety & Crime Reduction Strategies
- Drugs and alcohol Strategies
- Aims and objectives of the Private Security Industry Authority
- The Anti-Social Behaviour Act 2003
- The Health Act 2006
- The Violent Crime Reduction Act 2006

- Section 182 Guidance as revised in October 2012 in conjunction with amendments to the Licensing Act 2003

## **28.0 Dealing with Representations**

**28.1** Where a representation is made to the Licensing Authority, it will consider whether it is valid. In determining whether a representation is valid, the Licensing Authority will first consider if the representation made appears irrelevant, vexatious, frivolous or repetitious.

**28.2** Where someone or a Responsible Authority has made a valid representation about a licensed premises, or a valid application for a licence to be reviewed, then the Council's Licensing Team may initially arrange a mediation meeting to facilitate communication between all parties and attempt to address, clarify and resolve the issue of concern.

**28.3** This process will not override the right of the Licensing Authority to consider a valid representation in a committee environment or for any licence holder or other party to refuse to participate in a mediation meeting.

**28.4** At any stage, following the grant of a premises licence, a Responsible Authority, such as the Police or the fire authority, or any other person, such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence/certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

**28.5** Where the Licensing Authority considers that action under its statutory powers is necessary it may seek to:

- Modify the conditions/hours of the premises licence/certificate;
- Exclude a licensable activity from the scope of the licence;
- Remove the DPS where the sale or supply of alcohol is a feature;
- Suspend the licence for up to 3 months;
- Issue a warning, verbal or written
- Issue a Simple Caution
- Initiate prosecution proceedings;
- Revoke the licence/certificate.

## **29.0 Reviews**

**29.1** A key protection for the community is contained within the Licensing Act 2003. This is a review of the premises licence, or club premises certificate. It can be initiated at any time, where it can be shown that the licensing

objectives of crime and disorder, public safety, public nuisance or the protection of children from harm are being undermined.

- 29.2** At any stage following the grant of a premises licence a 'Responsible Authority' which includes the Police, Council's Noise Team, Trading Standards or any other person such as a local resident, residents' association, Ward Councillor, local business or trade organisation may ask the Licensing Authority to review a premises licence at any time because of a matter arising at the premises in connection with the promotion of the four Licensing Objectives.
- 29.3** Revocation or suspension of premises licences or certificates will normally be considered where offences, such as sale of alcohol to persons who are drunk or sale of alcohol to persons under 18, occur on a regular basis. Review proceedings are often the last stage in a process where other steps have failed to address the issues that may arise:
- Action needed should seek to promote the licensing objectives but be balanced against the financial impact on the business.
  - Action should be proportionate.
  - Action should support the local community safety, crime reduction and drugs strategies, particularly those relating to alcohol misuse.
- 29.4** A review of a premises licence would normally follow any action by the Police to close down a premises for up to 24 hours on the grounds of serious crime or disorder or noise nuisance as following a closure notice, issued by a Magistrates' Court which is then sent to the Licensing Authority.
- 29.5** The Secretary of State has recommended that ordinarily no more than one review should be permitted by a Licensing Authority from any person unless in compelling circumstances or arising following a closure order.
- 29.6** Section 182 Guidance, the Guidance, issued in connection with the Licensing Act 2003 stipulates that any representation made must be in writing, relate to particular licensed premises and be relevant to the promotion of the four licensing objectives.
- 29.7** The value of detailed evidence to support a representation cannot be over emphasized. Persons making a representation can attend the Review hearing. The person making the representation can amplify this at the hearing, but not extend this to other matters outside of the original representation.
- 29.8** Partnership working and warnings:

The Guidance further states that the promotion of the licensing objectives relies heavily upon partnership working with licence holders, authorised persons, any other person and Responsible Authorities in the pursuit of common aims and objectives. Reviews should not be used as a mechanism to create divisions between these groups to the extent that it undermines the benefits of co-operation and partnership working.

The Guidance recognises that it would be good practice for authorised persons and responsible authorities to give licence-holders early warning of their concerns about problems identified at the premises or in the vicinity of the premises where this can be linked back to the site and of the need for improvement. Failure to respond to these warnings or a Premises Action Plan is expected to lead to a decision to request a review of the premises licence or certificate.

**29.9** When a written request for a review comes from any other person for example a local resident, residents' association, local business or trade organisation, the Licensing Authority must first consider whether the complaint is not relevant, is vexatious, frivolous or repetitious.

**29.10** 'Not relevant'

A request would not be considered relevant where the matter complained of did not relate to the promotion of at least one of the licensing objectives at the licensed premise. Similarly, a general complaint over crime and disorder in a locality that is not tied or linked by a causal connection to particular licensed premises would not be considered relevant.

**29.11** 'Vexatious'

Vexatious requests for a review may arise out of disputes between businesses.

**29.12** 'Frivolous'

The national guidance notes that frivolous requests would be noticeable by their lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent in order to be relevant.

**29.13** Repetitious

A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in respect of the same premises licence which has already been determined; or
- representations considered by the Licensing Authority when the premises licence was first granted, or
- representations which would have been made when the application for the premises licence was first made and which were excluded and
- in addition to the above grounds, that a reasonable interval has not lapsed since that earlier review or the grant of the licence.

#### **29.14 Arranging the Hearing**

Following receipt of a request for a review or following a closure order, the Licensing Authority will arrange for a hearing in line with the Licensing Act 2003 and regulations prescribed by the Secretary of State.

#### **29.15 The Licensing Authority has a range of actions it can take resulting from the hearing, including:**

- take no action;
- issue an informal warning to the licence holder and/or recommend improvements over a particular time period;
- modify the premises licence/certificate;
- exclude a licensable activity from the licence;
- remove the Designated Premises Supervisor (DPS) in case of poor management or other reason;
- suspend the licence for up to 3 months;
- Revoke the licence.

### **30.0 Administration, Exercise and Overview of Functions**

**30.1** The Licensing Committee will consist of 15 Councillors who will sit at least annually to discuss policy, review delegated decisions and administrative matters. The Council will review the Statement of Licensing Policy at least every 5 years. Any changes to the Policy will include full consultation with the Responsible Authorities and any other person.

**30.2** Sub Committees of 3 Councilors will determine applications when representations have been received from any person and/or Responsible Authorities. A 'Hearings Procedure' has been developed to assist; decision makers, applicants, any other person and the Responsible Authorities with the process. This is included at Appendix 5.

**30.3** A Sub Committee may also refer to the Full Licensing Committee any matter it is unable to deal with because of the number of its members who

are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

- 304 Each decision of the Licensing Committee or its Sub Committee(s) shall be accompanied with clear reasons for the decision.
- 30.5 The Council's Authorised Officers will deal with all other licence applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 30.6 Council Officers will make the decisions on whether representations or applications for licence applications should be referred to the relevant Licensing Committee and whether representations are frivolous, repetitive or vexatious. When representations are rejected, the person making that representation will be given a written explanation as to why that is the case.

## **Appendix 1:**

### **Glossary of terms**

The Act, the Guidance, the Regulations, the Council's Statement of Licensing Policy and this website may contain words and phrases with which you are not familiar. To assist you, we have set out an overview of what they mean:

**Act** The Licensing Act 2003

### **Club Premises Certificate**

This is a licence granting 'qualifying club' status to specific premises, according to a number of qualifying conditions, including the provision that there are at least 25 members and that alcohol is only supplied by or on behalf of the club.

### **Current applications**

A schedule of all applications currently under consideration.

**DCMS** Department of Media Culture & Sport

<http://www.culture.gov.uk>

### **Designated Premises Supervisor (DPS)**

The Personal Licence Holder named on the Premises Licence as being in day-to-day control of the premises through whom all alcohol sales must be authorised.

### **Full Licensing Committee**

A Committee of 15 elected Councillors who determine Eastbourne Borough Councils overall approach to matters under the Act, with particular reference to Policy and Strategy.

### **Guidance**

Guidance issued by DCMS under Section 182 of the Licensing Act 2003, as revised in 2010

### **Licensing Act 2003 – Guidance Booklet**

A guide to applicants to assist in the preparation of their applications.

## **Hearing**

When an application for a new licence or to vary an existing licence goes to a Licensing Sub- Committee for consideration.

## **Justices Licence**

A licence issued by the Magistrates Court under the Licensing Act 1964.

## **Late night refreshment**

Under the terms of the Licensing Act 2003, the supply of hot food or hot drink between 11pm and 5am whether for consumption on or off the premises e.g. will cover late night takeaways and fast food outlets but also restaurants open after 11pm. See also late night refreshment.

## **Licensing Authority**

This is the Council body which determines matters under the Act.

## **Licensable activities**

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

## **Licensing objectives**

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

Each objective is of equal importance.

## **Licensing qualification**

A qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent)

## **Licensing Sub Committee**

A panel of 3 elected Councilors, taken from the Full Licensing Committee who will determine matters put before it within the terms of the Act, to include new applications, variations, reviews and other representations

## **Mandatory Conditions**

The Act sets out certain conditions that must be imposed on a premises licence in specified circumstances.

## **Minor Variation**

Process by which minor changes can be made to a premises licence, with certain exceptions.

## **Negotiation**

The Act, the Guidance, the Regulations and the Council's Statement of Licensing Policy all encourage those concerned with an application to resolve their differences by negotiation to avoid the necessity for hearings

## **Objection notice**

A procedure whereby the Police can object to the grant of a premises licence, variation for a premises licence or personal licence or to a Temporary Event Notice. (See also Relevant representation)

## **Operating Schedule**

A document in a prescribed form that sets out information about how the applicant for a premises licence intends to operate his business when carrying on licensable activities. Where an applicant for a premises licence submits an operating schedule, and there are no relevant representations (objections), Eastbourne Borough Council must grant the application and can impose only those conditions on the licence which are mandatory, and that are consistent with the operating schedule.

## **Personal Licences**

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed

## **Premises**

“Any place and includes a vehicle, vessel or moveable structure” providing licensable activities under the Licensing Act 2003

### **Premises Licence**

A licence granted in relation to specific premises and will specify the nature of the licensable activity and any applicable conditions.

### **Premises User**

The person applying for a Temporary Event Notice (TEN)

### **Procedure and policy**

The regulations to be applied at hearings for matters under the Act

### **Registered club activities**

Licensable activities carried on at premises holding a Club Premises Certificate

### **Regulated entertainment**

See regulated entertainment under the Act.

### **Regulations**

Regulations and Order to be made under the Licensing Act 2003

### **Relevant Representations**

The Act does not use the term “objections”. Instead authorised persons, any other person and responsible authorities may make relevant “representations” about an application for a licence. Representations must relate to the licensing objectives and where made by any person must not be frivolous or vexatious.

### **Responsible Authority**

Responsible Authorities are bodies that the Act says have a role in licensing and that will see all applications to vary a licence. A responsible authority can make a relevant representation about an application to vary a licence. The Responsible Authorities are:

**Sussex Police**  
**East Sussex Fire and Rescue Authority**  
**Health and Safety**  
**Environmental (Noise) Pollution**  
**Planning**

**Child Protection East Sussex County Council  
Trading Standards  
Licensing Authority  
Primary Care Trust  
Home Office**

## **Review**

The proceedings set out in the Act for reviewing premises licences where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring

## **Second Appointed Day**

The date upon which the Act and all licences issued under it come into full effect (24th November 2005)

## **Statement of Licensing Policy**

A document that sets out how Eastbourne Borough Council will carry out licensing for the next 5 years and how it proposes to uphold the four licensing objectives and other initiatives at a local level.

## **Steps**

The Act refers to “steps” that Eastbourne Borough Council can take where relevant representations have been made about an application. These are the grant subject to conditions; exclusion of licensable activities; restriction on such hours for licensable activities, rejection of the proposed premises supervisor; and rejection of the application.

## **Temporary Event Notices (TENs)**

A TEN can be used for one-off events with less than 500 people and for less than 168 hours or 7 days. No more than 15 can be held per premises and can only be held for 21 days aggregate,

## **Vary/Variation**

To vary a licence, or apply for a variation of a licence, means to change to a licence under the terms of the Act

## **Vicinity**

Ultimately this will be decided by the courts but Eastbourne Borough Council will consider whether a resident or a business would be directly affected by the carrying on of licensable activities on the premises.

## Appendix 2

### Eastbourne Borough Council Cumulative Impact **Assessment 2019 – 2024**

#### 1.0 Legislative Framework

1.1 Eastbourne Borough Council, as the Licensing Authority, has a duty to comply with its obligations under Section 17 of the Crime and Disorder Act 1998, and to promote the Licensing Objectives contained within the Licensing Act 2003, namely:

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

1.2 Due regard is had to guidance issued under Section 182 of the Licensing Act 2003, as revised in April 2018, concerning the cumulative impact of licensed premises within an area, and the resultant impact on the promotion of the licensing objectives.

1.3 The cumulative impact of licensed premises on the promotion of the licensing objectives under the Licensing Act 2003 is a proper matter which the Licensing Authority can take into account.

1.4 This should not, however, be equated with the 'need' for a licensed premises. This relates to the commercial demand for a particular type of premises. The issue of 'need' is a matter for the market to decide, and does not form part of the Cumulative Impact Policy or wider Statement of Licensing Policy.

#### 2.0 Definition

2.1 For the purposes of the Eastbourne Borough Council Statement of Licensing Policy, cumulative impact is defined as:

“The potential impact on the promotion of the licensing objectives where there are a number of licensed premises concentrated in one area.”

2.2 Where the number, type and density of licensed premises are unusually high, serious problems of noise, nuisance and disorder can occur outside or some distance away from the licensed premises in question. This is described as the cumulative impact of all premises taken together.

2.3 It is recognised that the impact on surrounding areas in relation to the behaviour of patrons from a number of premises located in close proximity to one another is greater than the impact of individual premises.

2.4 The issue of cumulative impact is also linked to:

- Any material increase in the occupant capacity of the premises;
- Any change in the nature of the operation of the premises. This may include a change to layout, the provision of vertical drinking,\* the inclusion of regulated entertainment, the addition of other licensable activities, extension to the times regulated entertainment and alcohol is sold or supplied, both on or off the premises;
- Consideration will also be given to applications for premises seeking to provide late night refreshment between the hours of 11.00pm –5.00am.

### **3.0 Context**

3.1 The Licensing Authority may receive relevant representations from either a 'Responsible Authority' or any other person that the cumulative impact of new premises licences, material changes and variations to existing permissions is leading to an area becoming saturated with licensed premises.

3.2 The issue of cumulative impact will be taken into account when considering the individual merits of an application. The onus is on the person or organisation making representations to prove any assertion by way of evidence, that the addition of the premises concerned and/or a variation to activities, hours or a change in nature of operation will undermine the promotion of the licensing objectives.

3.3 The Licensing Authority will not operate a quota of any kind which would predetermine an application, nor will it seek to impose general limitations on trading hours in particular areas unless there are clear, evidence based reasons for doing so.

3.4 Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide regulated entertainment, but with contrasting styles and characteristics.

3.5 Proper regard will be made to those differences and the impact they are likely to have on the local community. It is recognised that it may not always be possible to attribute issues to a particular premise, or patrons from a particular premises, but that cumulatively there can be a negative effect.

#### **4.0 Adoption of Cumulative Impact Assessment**

- 4.1 Eastbourne Borough Council as the Licensing Authority adopted Cumulative Impact for the town centre in July 2007. It is mindful of the problems that can arise when numbers of premises providing licensable activities are located in close proximity to one another, or where the density of premises is out of character with the locality.
- 4.2 Consideration will be given to the infrastructure in place to facilitate the dispersal of patrons from an area, including the availability of late night bus services, taxis and street cleansing services when establishments offering food, alcohol and regulated entertainment close.
- 4.3 A major concern for the Council is the “binge drinking culture.” This is particularly apparent in the town centre and its impact on policing the evening and night time economy. “Binge drinking” has increased markedly in recent years with the advent of:
- Alcopops
  - Marketing focusing on young people
  - Cut price alcohol promotions in venues
  - Cut price alcohol obtained from off licences and an increase in the practice of drinking at home prior to attending licensed venues, known as “preloading “
  - Large scale vertical drinking establishments where the primary intention of patrons is the consumption of alcohol
  - Venues seeking to diversify the activities available, their mode of operation, enabling them to be open until the early hours, with the provision of regulated entertainment encouraging patrons to attend for longer periods.
- 4.4 In agreeing its continuation within the Statement of Licensing Policy for the period **2019 – 2024**, the Council has considered:
- Evidence of serious and chronic concern regarding the concentration of licensed premises in undermining the promotion of the licensing objectives from a Responsible Authority, namely Sussex Police and the Council’s Officers delegated to deal with Noise issues.
  - Evidence from any other person to include local businesses, residents and representative groups regarding noise, nuisance and disorder where a particular concentration of licensed premises in an area of Eastbourne is considered to be causing a negative impact on one or more of the licensing objectives.

## **5.0 What Does The **Assessment** Do?**

- 5.1 The effect of adopting a Cumulative Impact Assessment is to create a rebuttable presumption that applications for new premises licences, club premises certificates or material variations to such will normally be refused if relevant representations are received.
- 5.2 Applicants must address the Cumulative Impact Assessment and produce evidence to demonstrate how the application will:
- (a) Not add to cumulative impact, and challenges already being experienced in the area or
  - (b) Undermine the promotion of the licensing objectives.
- 5.3 The applicant must produce evidence to rebut the presumption to refuse an application within the Cumulative Impact Assessment area. This Assessment takes effect where a relevant representation is received.
- 5.4 It must be stressed that the presumption to refuse an application does not relieve Responsible Authorities or any other person of the need to provide supporting evidence in conjunction with a relevant representation. This must be submitted before the Licensing Authority may lawfully consider giving effect to the Cumulative Impact Assessment.
- 5.5 Where there is evidence that a particular area of the Borough is already suffering adverse effects arising from a concentration of licensed premises, and it can be demonstrated that communities are under pressure because of it, this will be taken into account in determining any further applications or material changes to licensed premises within the area identified. This includes:
- 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;
  - The availability of suitable public transport, private hire vehicles and taxis to facilitate dispersal at key times;
  - The availability of other support services at key times, for example street cleansing services.
  - The impact upon the policing of an area

## **6.0 Integration of Strategies**

- 6.1 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the control of the licence holder but is still a

key aspect of such control and will be part of a holistic approach to the management of the evening economy in towns' and city centres.

- 6.2 The Licensing Authority recognises that as well as licensing legislation, there are a number of other mechanisms for addressing issues of noise, nuisance and anti-social behaviour which occur in the vicinity of licensed premises.

These include:

- Planning controls
- Ongoing measures to provide a safer and cleaner environment in partnership with residents, local businesses and others
- Powers to designate parts of the borough which restricts the consumption of alcohol in designated public places
- confiscation of alcohol in designated areas
- Police enforcement of the law with regard to disorder and anti-social behaviour
- Police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise
- The power of police, local businesses or residents to seek a review of the premises licence
- Enforcement action against those selling or supplying alcohol to people who are underage or already drunk.

- 6.3 The Licensing Authority may address a number of these issues through Community Safety Partnerships in line with the strategic objectives for crime and disorder reduction within the Borough.

- 6.4 The Council and Partner organisations already employ a range of mechanisms to prevent or limit cumulative impact relating to the problems arising from licensed premises and their customers causing noise, nuisance, disturbance or behaving unlawfully at, outside or in the vicinity of the premises.

- 6.5 The Licensing Authority and Sussex Police are aware of the problems associated with the town centre area in respect of alcohol related crime and disorder and have launched a number of initiatives to combat this including intelligence sharing about problem premises, joint licensing visits and targeted activity.

- 6.6 The standard shift pattern operated in the Eastbourne Borough has been altered to ensure extra resources are available to Police in the town centre at key times to tackle crime, disorder and associated nuisance.

- 6.7 The Police use a Fixed Penalty Ticket system to ensure efficient use of resources, speed up the judicial process and ease the pressure on the Courts dealing with the results of the alcohol related crime, disorder and nuisance problems.
- 6.8 There is an established alcohol treatment referral scheme for those individuals who come into custody at Eastbourne Custody Centre and investment in diversionary activities for young people.
- 6.9 Work has been undertaken to promote safe, sensible and social drinking campaigns, including the strategic drink campaigns undertaken by East Sussex County Council. The Licensing Authority recognises that the Cumulative Impact Assessment is one of a range of mechanisms to regulate activities of both premises and individuals.
- 6.10 Other measures include; the presence of Street Pastors on the town centre late at night and at weekends to assist people who may be in difficulty, an established Nightwatch Radio Scheme to facilitate communication between licensed premises and exclude problem individuals from venues, CCTV coverage and monitoring of the town centre, regular joint operations to monitor licensed premises, active use of dispersal orders, provision of facilities for young people to offer diversionary activities and the active targeting of irresponsible drinks promotions.

## **7.0 Where does the Cumulative Impact Assessment Apply?**

- 7.1 Since 2007, the Licensing Authority has applied a special Cumulative Impact Assessment to an area within Eastbourne Town Centre. This is identified within Appendix 3 along with supporting statistical information and a statement received from Sussex Police.
- 7.2 Following consideration of the latest evidence, the Licensing Authority has revised its Cumulative Impact Assessment, taking account of relevant feedback.
- 7.3 The Licensing Authority believes that, following evidence from Sussex Police, the cumulative impact of licensed premises in this area continues to undermine the promotion of the licensing objectives.
- 7.4 Within Eastbourne Town Centre, there is strong evidence of an impact on crime and disorder caused by the number of people attending licensed premises. Data has been provided in respect of the number of crimes within this area.

- 7.4 This area accounts for over 50% of all licensed premises in the Borough. Significant proportions of these are pubs, clubs and off licences. Although the licensed premises have differing closing times, it is evident that there is an accumulation of individuals in the town centre as a result of the services provided by the night time economy.
- 7.5 The capability of the transport system to disperse these numbers rapidly with minimum impact on crime and disorder and public nuisance is limited.
- 7.6 The Licensing Authority takes the view that problems associated with the licensing objectives are caused by the number of people attending licensed premises in this area, their movement to and from these premises and their dispersal home.
- 7.7 The data analysis and statements of Sussex Police contained in Appendix A, support the continuation of the Cumulative Impact Policy and zone.

## **8.0 Conclusion**

- 8.1 The conclusion drawn in respect of the evidence is that where relevant representations are submitted, the Cumulative Impact Assessment should aim to continue to limit the number of new or material variations to licensed premises. The rebuttable presumption to refuse such remains in place.
- 8.2 The Licensing Authority believes that the presence of a Cumulative Impact Assessment in the designated area since 2007 supports and assists the range of strategies in place to tackle crime, disorder, noise and nuisance.
- 8.3 Accordingly, the Licensing Authority has resolved to maintain the Cumulative Impact Assessment. The Assessment will come into effect where relevant representations are received, will seek to prevent a further increase in the number of licensed premises and when appropriate to limit material changes to licences within that area.
- 8.4 The Licensing Authority wishes to encourage the provision of a range of entertainment in the area and to reduce the dominance of pubs, off licences, bars and nightclubs. Any future expansion of licensed premises and the evening or night time economy should be consistent with the wider regeneration aspirations of the Council and its partners and should actively promote an inclusive town centre for all that is a safe and pleasant place to be in. This will be balanced against any likely negative impact on the licensing objectives.

8.5 The Licensing Authority has resolved that the Cumulative Impact Assessment is one such measure to facilitate this, and ensure that the correct balance is sought.

## Appendix 3

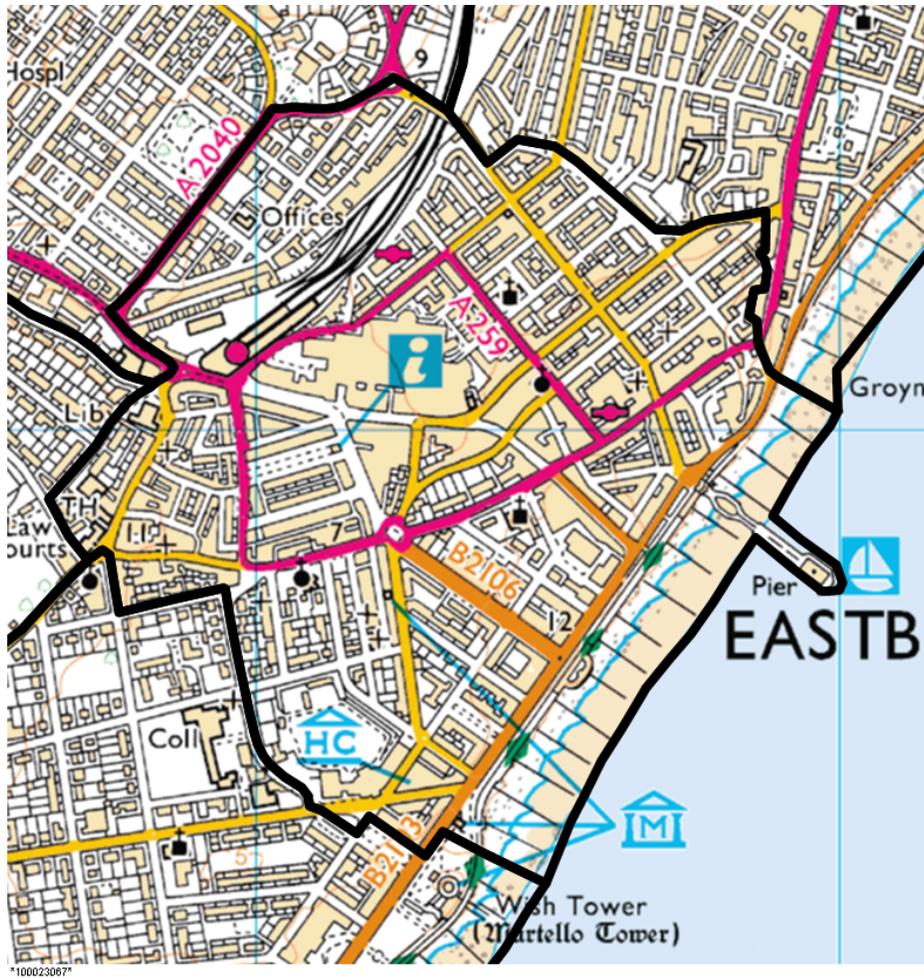
### Cumulative Impact Strategy Assessment Data 2019-2024

#### 1.0 Introduction

- 1.1 This report contains information provided by Sussex Police relating to Crime and Disorder in Eastbourne and in particular the area in the town centre that has been highlighted as the Cumulative Impact Zone (CIZ).
- 1.2 Sussex Police have provided data and an associated statement that supports the continued existence of the CIZ.
- 1.3 The data provided by Sussex Police is for rolling years from **2016-2019** and includes the following crime:
  - Theft & Handling
  - PPVC
  - Violence Against the Person (VAP)
  - Criminal Damage
  - Burglary
  - Vehicle
  - Drugs
  - Other Offences
  - Antisocial Behaviour (ASB) Incidents

#### 2.0 Sussex Police: Cumulative Impact Report: 2019

- 2.1 The report contains data to end of **January 2019**.
- 2.2 Area Analysed: The area analysed is the Neighbourhood area called Eastbourne Town Centre. The map below shows the area this encompasses:



All Recorded Crime Data is provided from Sussex Police as Appendix A

## Appendix 4:

### List of Useful Websites:

Department For Culture Media and Sport

<https://www.gov.uk/government/organisations/department-for-culture-media-sport>

East Sussex Drug and Alcohol Action Team

<http://eastsussex.gov.uk/community/emergencyplanningandcommunitysafety/communitysafety/drugsandalcohol/daat.htm>

Alcohol Licensing (Licensing Act 2003)

<https://www.gov.uk/alcohol-licensing>

Gambling Commission

<http://www.gamblingcommission.gov.uk/>

Health and Safety Executive, 'Managing Crowds Safely'

<http://www.hse.gov.uk/pubns/indg142.htm>

Portman Group – Age Verification

[www.portmangroup.org.uk](http://www.portmangroup.org.uk)

Safer Pubbing and Clubbing Guide for Licensing Authorities, Club Managers and Promoters

<http://www.clubhealth.org.uk/pages/downloads/Safer%20Dancing.pdf>

Section 182 Guidance issued in conjunction with the Licensing Act 2003

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98101/guidance-section-182-licensing.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98101/guidance-section-182-licensing.pdf)

Security Industry Authority (SIA)

Registered Door Supervisors

<http://www.sia.homeoffice.gov.uk/Pages/home.aspx>

Smoke free Legislation

<http://www.smokefreeengland.co.uk/thefacts/the-regulations.html>

Temporary Event Notice Guidance (Licensing Act 2003)

<https://www.gov.uk/government/organisations/home-office/series/alcohol-licensing-temporary-events-notice>

What to do if you are worried about the safety of a child

<http://www.eastsussex.gov.uk/childrenandfamilies/childprotection/default.htm>



## **Appendix 5:**

### **Contact Details of Responsible Authorities:**

Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4TW  
Tel:01323 410000

Fire Authority  
Fire Safety Officer  
East Sussex Fire and Rescue Service  
Eastbourne Borough Fire Safety Office  
Whitley Road  
Eastbourne  
BN22 8LA  
Tel: 0845 1308855

Sussex Police  
The Licensing Unit  
Police Station  
Terminus Road  
Bexhill-on-Sea  
East Sussex  
TN39 3NR  
Tel: 0845 6070999

For Non-council owned premises

#### **Health & Safety Officer**

Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4TW  
Tel: 01323 410000

Council owned premises:

#### **Enforcement Liaison Officer**

Health & Safety Executive  
Phoenix House  
23-25 Cantelupe Road  
East Grinstead  
RH19 3BE  
Tel: 01342 334200

#### **Planning**

Development Manager  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4UH

Tel: 01323 410000

**Environmental Health**

Senior Specialist Advisor  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne,  
East Sussex  
BN21 4TW  
Tel: 01323 410000

**Child Protection**

East Sussex County Council  
Head of Children's Safeguards and Quality Assurance  
P.O Box 5  
East Sussex County Council  
County Hall  
Lewes  
East Sussex  
BN7 1SW  
Tel: 01273 481000

**Trading Standards**

East Sussex County Council Trading Standards  
St Marys House  
52 St Leonards Road  
Eastbourne  
East Sussex  
BN21 3UL  
Tel: 01323 418200

**Primary Care Trust**

Public Health Network & Business Manager  
E1C County Hall  
St Anne's Crescent  
Lewes  
East Sussex  
BN7 1UE



## Eastbourne town centre – Review of crime/ASB data

Requested by	Insp Rachel Barrow
Author(s)	Andy Smith - Prevention Analyst
Department	Prevention Support Team – East Sussex Division
Reference	ESX_AS: 164
Date	25/02/2019
Version	v.1.1 (sanitised)

### Scope:

The purpose of this document is to provide a breakdown of recorded crime and ASB data for Eastbourne town centre (see map opposite). This data will be compared to the rest of Eastbourne as part of the review process of the cumulative impact strategy. All data will be exported for the rolling year period of February to January for the last three years (2016 – 2019).

All data will be exported using the iBase system searching for the crime data using HO Crime Type, including focus on public place violent crime (excluding domestic related offences). ASB incidents will be identified via NSIR group qualifier *anti-social behaviour*.

### Caveats and limitations:

- All Niche crime data has been exported using the *Date Actual From* rather than the *Input Date* as used by within performance reports published by the Corporate Development Department. This can sometimes lead to the figures in this report being slightly different to information provided by the Performance Team.
- For the purpose of this report town centre crime will be any offence recorded within the Police Beat of *Devonshire - EE1002* (see map opposite) rather than the Neighbourhood of *Town Centre*. Data quality checks for Eastbourne crime data over the last rolling year (February 2018 – January 2019) has showed that approx. 30% of all recorded crime had no Neighbourhood recorded in offence location data fields.
- Anti-social behaviour incidents have been identified using the NSIR Qualifier, this qualifier is manually selected by the call taker at the time of incident recording and therefore the search criteria used may not capture all incidents which are ASB related.

### Crime and incident data:

The breakdown of crime data by Police Beat area over the latest rolling year period of February 2018 – January 2019 shows 30% of all recorded crime in Eastbourne occurred within Devonshire Police Beat. The main crime type recorded was Violent Crime, responsible for 51% of all crime in this location. Devonshire also recorded the highest proportion of violent crime (29%) out of the nine police beat areas in Eastbourne. Over the last 12 month period, the total number of overall violent crime offences

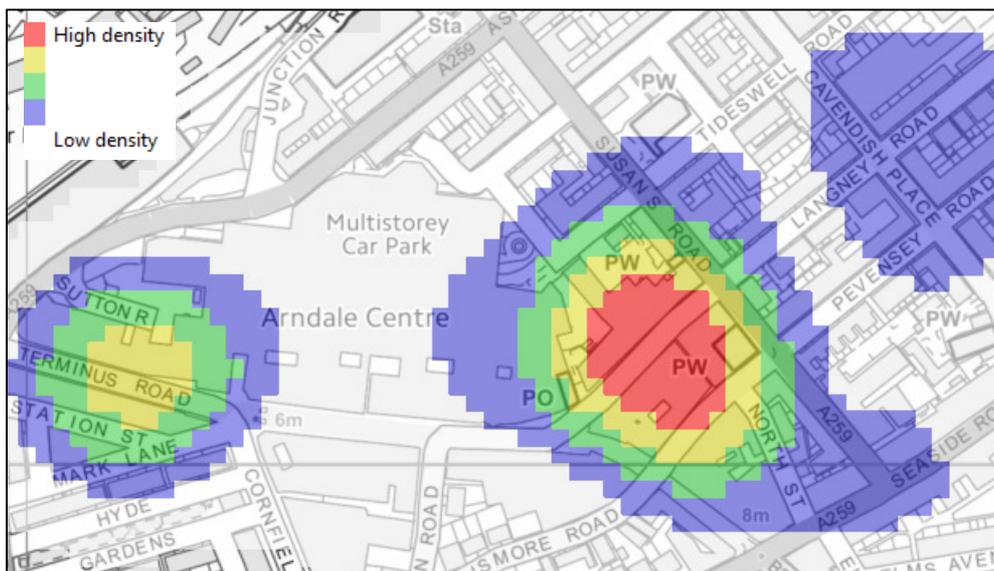
**-NOT PROTECTIVELY MARKED-**

in Devonshire has increased (+126). However, the breakdown of Violent Crime and Violence against the Person offences recorded as Public Place (excluding Domestic) shows offences have reduced compared to the previous 12 month period. The three main crime types remain as:

- i. **ABH (193 offences)** - Time and date analysis shows that this crime type is linked to the night time economy, peaking during the early hours of Saturday and Sunday between 0100-0400hrs. The main hotspot area in the town centre is within the area of Cameo Nightclub/Langney Road, with a secondary hotspot area around McDonalds Restaurant/Terminus Road.



- ii. **Assault without injury (161 offences)** - Time and date analysis shows that this crime type is linked to the night time economy, peaking during the early hours of Saturday between 0200-0300hrs. The main hotspot area within the town centre is within the area of Cameo Nightclub/Langney Road, with secondary area around the location of McDonalds Restaurant/Terminus Road



**-NOT PROTECTIVELY MARKED-**

**-NOT PROTECTIVELY MARKED-**

- iii. **Public fear, alarm or distress (155 offences)** - Time and date analysis shows that this crime type peaks during the week on Monday, Thursday and Friday, with key time of 1400-1500hrs. The main hotspot area within the town centre is around McDonalds Restaurant/Terminus Road.



Incident data for reports of anti-social behaviour and incidents flagged as being alcohol related show that the overall number of incidents reported in Devonshire over the last 12 months have reduced as well as the percentage of these types of incidents occurring in the area compared to the rest of Eastbourne.

**Table 1 and 2:** Total crime by HO Crime Type in Devonshire vs Eastbourne District - including breakdown for violent crime and % in area

Table 1: Devonshire			
HO Crime Type	Feb18 – Jan19	Feb17 – Jan18	Feb16 – Jan17
Burglary	125	130	102
Criminal Damage	253	281	236
Drug Offences	99	99	95
Fraud & Forgery	19	24	25
Other Offences	61	63	41
Theft & Handling	697	810	692
Violent Crime	1287 (29%)	1161 (30%)	961 (28%)
i. Robbery	30 (30%)	25 (33%)	25 (37%)
ii. Sexual Offences	65 (24%)	65 (24%)	46 (21%)
iii. Violence against the Person	1192 (30%)	1071 (30%)	890 (29%)
<b>TOTAL</b>	<b>2541 (30%)</b>	<b>2568 (29%)</b>	<b>2152 (33%)</b>

Table 2: Eastbourne District			
HO Crime Type	Feb18-Jan19	Feb17 – Jan18	Feb16 – Jan17
Burglary	425	579	467
Criminal Damage	1111	1316	1086
Drug Offences	270	274	311

**-NOT PROTECTIVELY MARKED-**

**-NOT PROTECTIVELY MARKED-**

Table 2: Eastbourne District			
HO Crime Type	Feb18-Jan19	Feb17 – Jan18	Feb16 – Jan17
Fraud and Forgery	110	127	153
Other Offences	210	206	167
Theft & Handling	2020	2390	2094
Violent Crime	4403	3926	3417
i. Robbery	101	75	67
ii. Sexual Offences	273	268	220
iii. Violence against the Person	4029	3583	3130
<b>TOTAL</b>	<b>8549</b>	<b>8818</b>	<b>7695</b>

**Table 3:** Public Place related violent crime - excluding domestic related offences

Rolling Year	Devonshire (% of total crime across the district)			Eastbourne District		
	Public Place Violent Crime	Public Place Violence against the Person	Violent crime linked to licenced premise	Public Place Violent Crime	Public Place Violence against the Person	Violent crime linked to licenced premise
Feb18 – Jan19	683 (32%)	635 (33%)	109 (52%)	2103	1934	209
Feb17 – Jan18	723 (35%)	670 (35%)	113 (49%)	2092	1938	231
Feb16 – Jan17	599 (33%)	562 (33%)	123 (60%)	1830	1714	205

**Table 4:** ASB incidents with NSIR Qualifier – anti-social behaviour

Rolling Year	Devonshire	Eastbourne District	% in area
Feb18 – Jan19	686	2422	28%
Feb17 – Jan18	920	3083	30%
Feb16 – Jan17	817	2715	30%

**Table 5:** Incidents containing 'alcohol' qualifier tag

Rolling Year	Devonshire	Eastbourne District	% in area
Feb18 – Jan19	312	739	42%
Feb17 – Jan18	445	1022	44%
Feb16 – Jan17	476	1153	41%

**-NOT PROTECTIVELY MARKED-**