



# Licensing Policy

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The Licensing Act can be viewed at:  
[http://www.opsi.gov.uk/acts/acts2003/ukpga\\_20030017\\_en\\_1](http://www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en_1)

The Secretary of State's Guidance can be viewed at:  
[http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/publications/D/CMS\\_LicensingGuidanceeb.pdf](http://webarchive.nationalarchives.gov.uk/+/http://www.culture.gov.uk/images/publications/D/CMS_LicensingGuidanceeb.pdf)

## 1.0 Introduction

### 1.1 Background

1.1.1 South Somerset District Council (the Council) is the licensing authority under the Licensing Act 2003 ('the Act'). It is empowered to administer the following in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment within the District:

- premises licences including provisional statements, full and minor variations, transfers, interim authorities and reviews
- club premises certificates
- temporary events notices
- personal licences

1.1.2 The Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of its Licensing Policy before the Authority can carry out any licensing or regulatory functions under the terms of the Licensing Act 2003. This Policy must be kept under review and the Licensing Authority may make any revisions to it, as it considers appropriate.

1.1.3 This Licensing Policy sets out the issues that the Licensing Authority will take into account when determining licences throughout the District of South Somerset and encompasses experience gained in the implementation and regulation of the Licensing Act 2003.

1.1.4 In determining this Policy the Licensing Authority has had regard to the Department of Culture Media and Sports (DCMS) Guidance issued under Section 182 of the Licensing Act 2003. In determining applications under The Act the Licensing Authority shall consider:

- The promotion of the four Licensing Objectives
- Representations and evidence presented by all parties, together with any relevant supporting documentation
- The Latest Guidance issued by the Government
- The Licensing Authority's own Statement of Licensing Policy

### 1.2 Aim

1.2.1 The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives.

1.2.2 The aim of this Licensing Policy is to set out how the Licensing Authority seeks to promote the four licensing objectives, which are:

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

1.2.3 These four objectives will be the paramount considerations when determining a course of action in relation to the Licensing Authority's licensing functions. Each objective will be given equal importance.

### 1.3 Purpose

- 1.3.1 The main purpose of this Policy is to provide clarity to applicants, Interested Parties and Responsible Authorities on how the Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment.

### 1.4 Consultation

- 1.4.1 Before determining its policy for any three year period, the Licensing Authority will consult the following:

- the Chief Officer of Police
- the Fire Authority
- persons/bodies representative of local holders of premises licences
- persons/bodies representative of local holders of club premises certificates
- persons/bodies representative of local holders of personal licences
- persons/bodies representative of businesses and residents in the District

- 1.4.2 The Licensing Authority may consult beyond the statutory requirements, and seek comments from additional bodies, groups or individuals as appropriate.

### 1.5 Fundamental Principles

- 1.5.1 This Policy sets out the Licensing Authority's general approach to the making of licensing decisions and is consistent with the provisions of the Act. Nothing in the Policy will undermine the right of any individual to apply for authorisations and to have any such application considered on its individual merits. Similarly, nothing in the Policy will override the right of any person to make representations on an application or to seek a review of a Licence or Certificate in accordance with the provisions of the 2003 Act.

- 1.5.2 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 Single Equalities Scheme.

- 1.5.3 With the introduction of the Policing & Crime Act 2009, the Licensing Authority further acknowledges and supports that this legislation has been introduced against the background of increasing alcohol-related anti-social behaviour and subsequent hospital admissions that has led to criticism due to the increased cost to local residents. This Act signifies a shift back from deregulation towards offering greater support for communities being adversely affected.

- 1.5.4 The Licensing Authority may recommend actions over and above the requirements of a licence/certificate and applicants are asked to give these recommendations serious consideration, as adoption of best practice may be considered in the investigation of complaints if they arise in connection with the premises in the future.

- 1.5.5 The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations and only if a Licensing Committee or Licensing Sub-Committee determines the matter.

Any conditions attached to the licence must relate to the promotion of the Licensing Objectives.

- 1.5.6 The Licensing Authority acknowledges that the Government believes that in some circumstances flexible hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 1.5.7 It is necessary however, to consider national guidance in the context of local circumstances. Where licensed premises are surrounded by housing, unrestricted extensions of hours could extend the time of disturbance to later in the night. The Guidance issued under s182 of the Act, acknowledges that tighter control may be justified in residential areas and the Licensing Authority considers that this is particularly relevant to parts of its administrative area, always having regard to the individual merits of any application.
- 1.5.8 In general terms the Licensing Authority will closely scrutinise applications for premises licences showing a late terminal hour so as to be satisfied that they will have no adverse impact on the Licensing Objectives.
- 1.5.9 Once people are beyond the control of the individual, club or business holding the relevant authorisation licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour. Licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the district.
- 1.5.10 The Licensing Authority expects every licence holder or event organiser to minimise the impact of their activities on the surrounding area and any anti social behaviour created by their customers in and within the vicinity of their premises by taking appropriate measures and actions consistent with that responsibility. Whether or not incidents can be regarded as being in 'the vicinity' of the licensed premises is recognised as a question of fact and will depend on the specific circumstances in each case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, 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.
- 1.5.11 The type of entertainment offered on licensed premises and the closing hour of premises permitted to provide alcohol to the public often have a direct link to crime and disorder, public nuisance and public safety issues. For example, there is generally more likelihood of crime and disorder and public safety problems occurring in a music and dance venue permitted to sell alcohol and open until 3 am than there is in a well managed public house located in a quiet back street that provides limited regulated entertainment and closes at 11 pm.

## **2.0 General Principles**

In all applications relating to premises, applicants should specify methods by which they will promote the four Licensing Objectives in their operating schedules.

## 2.1 Revisions to Policy.

2.1.1 The Policy shall be subject to periodic reviews and further consultation as and when required. The Licensing Authority may make revisions to this Policy following changes to, for example:

- Local circumstances;
- The Licensing Act, associated regulations or statutory guidance;
- Other national legislation; or
- The policies and practices of a responsible authority

## 2.2 Areas of Concern

2.2.1 Specific areas of concern include:

- Sales of alcohol from “On” and “Off” licensed premises.
- Glass related injuries.
- Noise from music on the premises.
- Nuisance and disturbance from smokers immediately outside the premises.

2.2.2 Applicants for a premises licence are advised to include in their Operating Schedule, (where applicable) specifically how they will prevent sales of alcohol to persons under 18 years, minimise glass related injuries and or assaults, prevent noise from licensed premises become a nuisance and manage customers outside their premises who are smoking.

2.2.3 Crime Statistics locally indicate that a last time of entry condition is assisting in the promotion of the licensing objectives. It is therefore expected that applicants for late licensed premises will detail in their operating schedules that there will be no new entry or re-entry to the premises after 1am.

## 2.3 Children and cinemas

2.3.1 The Act requires applicants for premises licences and club premises certificates to copy details of their applications to a body which:

- a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
- b) is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters.

2.3.2 The Licensing Authority’s policy is that the Responsible Authority in relation to the protection of children from harm is Somerset County Council’s Social Services Department, which for the South Somerset Area is based at Maltravers House, Petters Way, Yeovil BA20 1SP. Further details will be available in the Licensing Authority’s guidance documents.

2.3.3 The Licensing Authority will expect licensees of premises giving film exhibitions to include, in their operating schedules, arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the Licensing Authority.

2.3.4 The Licensing Authority does not intend to adopt its own system of film classification but reserves the right to amend the classification imposed by the British Board of Film Classification.

2.3.5 If the Licensing Authority attaches an age-restriction to any film that differs from the BBFC classification or attaches one to an unclassified film, the information about the Licensing Authority's classification will be published on the Council's website at [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk).

## 2.4 Licensing Hours

2.4.1 With regard to licensing hours the Licensing Authority will consider each application on its individual merits.

2.4.2 Applications for premises licences with a terminal hour later than 12 midnight where the sale or supply of alcohol for consumption on the premises is the main activity or where the sale or supply of alcohol is accompanied by musical entertainment, will be subject to close scrutiny by the Responsible Authorities to ensure that there will be no adverse impact on the Licensing Objectives. Specifically, the applicant should ensure that the operating schedule for such a premises demonstrates how the Licensing Objectives will be met. Applicants are strongly recommended to seek the advice of both the Council's Licensing Officers and the Police in this regard. This is a general policy and does not automatically mean that all applications will result in licences being granted until midnight or that no applications will be granted with a closing hour after midnight.

2.4.3 In considering these issues the Licensing Authority will give careful consideration to the nature of the venue proposed. For example, the Council is keen to promote establishments at which the service and consumption of alcohol is not the primary activity. These may include restaurants, theatres, cinemas, comedy clubs, galleries, museums, and similar venues. The Licensing Authority's experience is that such venues are liable to give rise to fewer public concerns in relation to later closing hours.

2.4.4 The Licensing Authority will pay special regard to the proximity of residential properties to the proposed premises. Consideration will be given to the imposition of stricter noise control conditions, if representations are received in areas with a concentration of residential properties.

2.4.5 The Licensing Authority will expect premises to be cleared of patrons within a reasonable time of the terminal hour set for the premises. Applicants should state in their operating schedule the time they intend to clear the premises.

2.4.6 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons for restricting those hours. An example would be where the Police make representations that the premises are a focus of disorder and disturbance.

## 2.5 Maximum Capacities

2.5.1 The Licensing Authority believes that some of the problems that may occur in late night licensed premises may be controlled by good management practices. However, controlling the numbers of customers allowed into the premises will also assist in promoting the following three Licensing Objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance

## 2.6 Late Night Refreshment

- 2.6.1 The Licensing Authority will expect applicants for licences in respect of late night refreshment premises to detail in their operating schedules how they intend to promote the licensing objectives and in particular how they intend to address queue management, litter and noise disturbance.
- 2.6.2 Where appropriate, and, in line with the Public Nuisance and Public Safety Licensing Objectives, the Licensing Authority may recommend that applicants display their company name on containers and packaging; this will enable the Licensing Authority to identify any premises causing concern.
- 2.6.3 The Licensing Authority expects that any premises providing late night refreshment will have a responsible policy for regularly clearing litter from outside their premises and for 25 metres along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. Such Policy could also include the display of notices advising customers to use the bins provided. In addition, where there is evidence that grease and food, etc. has emanated from the premises, the Licensing Authority recommends that the highway in the vicinity of the premises is swilled or scrubbed so as not to attract gulls, pigeons and vermin. The Licensing Authority recommends that all such inspections and action taken be recorded in the Premises Log Book.
- 2.6.4 Where an applicant wishes to sell alcohol in such an establishment, the Licensing Authority recommends the Operating Schedule sets out specific measures to ensure the prevention of Crime and Disorder in the vicinity of the premises.

## 3.0 Licensing Approach

### 3.1 Partnership Working

- 3.1.1 The Council recognises that Licensing functions under the Act are not the only means of promoting the principles behind the Licensing Objectives. Delivery includes working with Planning, Environmental Health, the Police, the Fire Authority, the Crime and Disorder Reduction Partnership, the Town Centre Manager, Pubwatch, local businesses and residents, Somerset County Council, transport operators and those involved with child protection.
- 3.1.2 The Council recognises that co-operation across services within the Council and with our external partners remains the best means of promoting the Licensing Objectives.
- 3.1.3 The Licensing Authority seeks to encourage and support the night-time economy in providing a vibrant and safe town centre experience. It shall work closely with the Responsible Authorities to deliver the licensing objectives, including the licensed trade, local people and businesses. The Licensing Authority will continue to work closely as part of these groups to promote the common objectives and shall recognise its duty under Section 17 of The Crime and Disorder Act 1998 when carrying out its functions under the 2003 Act. In addition the Licensing Authority will seek to support strategies where they are allied to the licensing

objectives such as The Community Safety Partnership Plan, the National Alcohol Harm Reduction Strategy and any other relevant strategies and policies.

- 3.1.4 The Licensing Authority recognises that the private sector, local residents and community groups in particular have a vital role to play in promoting the licensing objectives. The Licensing Authority shall work closely with other enforcement agencies in the management of the night time economy, particularly relating to the tackling of under age sales and proxy sales of alcohol and drunkenness or disorder on or in the immediate vicinity of the licensed premises.

### 3.2 Cumulative Impact Policy

- 3.2.1 After considering evidence provided by Avon and Somerset Constabulary on crime statistics in Yeovil and Chard town centres, the Licensing Authority considers it appropriate and necessary to incorporate within this Policy Statement a Cumulative Impact Policy for the towns of Yeovil and Chard, which is set out in full at Appendix B.

- 3.2.2 The effect of adopting this Cumulative Impact Policy would be to create a presumption that applications for new licences, variations or material variations, will normally be refused if relevant representations are received unless it can be demonstrated that the operator will not add to the cumulative impact already being experienced.

- 3.2.3 The Cumulative Impact Policy shall continue to be kept under review, particularly with regard to the boundaries of the cumulative impact area and the Licensing Authority shall continue to regularly assess whether or not a Cumulative Impact Policy is necessary for the promotion of the four Licensing Objectives.

- 3.2.4 After receiving representations on a new or varied application, the Licensing Authority shall consider whether it would be justified in departing from the Cumulative Impact Policy in the light of the individual circumstances of the case. For example, whereas a nightclub or high capacity public house might add to the cumulative impact problems in the identified area, a small restaurant or theatre may not. Each case will be treated on its own merit.

- 3.2.5 The cumulative impact policy cannot be used as a ground for revoking an existing licence or certificate when representations are received concerning problems at a premise because reviews must relate to specific premises.

### 3.3 Local Strategies and Policies

- 3.3.1 Where appropriate, the Committee will take into account local strategies and policies. These will include:
- Sustainable Community Strategy
  - Community Safety Plan

### 3.4 Integrating Strategies

- 3.4.1 There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case the Council will aim, as far as possible, to coordinate them.

- 3.4.2 Cultural Strategy – The Council will monitor the impact of any decisions on the provision of regulated entertainment. The aim is not to deter live music, but to ensure that the licensing objectives are promoted. The Council will monitor the effect of licensing on the provision of regulated entertainment, particularly live music and dancing to ensure that any licensing conditions that impose any restrictions on such events are proportionate and reasonable.
- 3.4.3 Racial Equality – The Council is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The impact of these issues on the Licensing Policy will be monitored and amendments will be made as necessary.
- 3.4.4 Where appropriate, the Licensing Authority will also have regard to:
- local crime prevention strategies;
  - needs of the local tourist economy;
  - employment situation in the area and the need for new investment and employment where appropriate;
  - needs of the local community
  - the duty on Public Authorities to eliminate unlawful discrimination;
  - the Economic Strategy
  - the policy on cumulative impact.

### 3.5 Avoiding Duplication

- 3.5.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes such as health and safety at work, fire safety, building control and planning. Conditions will not be imposed if the matters concerned are already provided for in other legislation. However, other legislation may not always cover the unique circumstances that arise in connection with licensable activities and in such cases tailored conditions may be necessary but only if relevant representations are received.
- 3.5.2 The Licensing Authority recognises that in accordance with Section 43 of the Regulatory Reform (Fire Safety) Order 2005, any conditions imposed by the Licensing Authority that relate to any requirements or prohibitions that are or could be imposed by that Order, shall have no effect. The Licensing Authority shall therefore not seek to impose fire safety conditions where the Order applies.
- 3.5.3 In much the same way, the Indecent Displays Act 1981 prohibits the public display of indecent matter and the Licensing Authority shall therefore not seek to impose conditions concerning such displays inside or outside the premises. The existing laws governing indecency and obscenity are adequate to control adult entertainment of this nature. However, the Licensing Authority shall, if it considers necessary in certain premises, consider attaching conditions following a hearing addressing the exclusion of minors.
- 3.5.4 Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether or not to grant or vary a licence but only if relevant representations are received.

- 3.5.5 The Licensing Authority recognises that the existence of planning permission, building regulation approval or outside table licences must be properly separated from licensing applications to avoid duplication and inefficiency. Similarly, the existence of a Premises Licence shall not prejudice the consideration of any planning, building regulation approval or outside table applications. However, the Licensing Authority shall expect applicants to have obtained the appropriate consents or licences prior to operation.
- 3.5.6 Where premises have not obtained such consents or licences, they will be liable for enforcement action under the appropriate legislation. There may be circumstances when as a condition of planning permission a terminal hour is set for the use of commercial premises. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time to ensure that they are not in breach. Premises operating in breach of their Planning Permission or their premises licence/certificate may be liable to enforcement action by the Planning Authority or the Licensing Authority as appropriate.

### 3.6 Vicinity

- 3.6.1 The term “vicinity” is used in the Act on a number of occasions and, in particular, with reference to those “Interested Parties” who may lodge objections to applications for premises licences and who may make representations concerning existing premises licences. The Act defines an “Interested Party” as being “a person living in the vicinity, a body representing persons living in the vicinity, a person involved in a business in the vicinity or a body representing those persons”. However, the Act does not define the term “vicinity”.
- 3.6.2 The Licensing Authority has decided that in order to assist applicants and residents it would be helpful to provide guidance as to how it will approach the meaning of the term “vicinity.” The Licensing Authority will normally treat the term “vicinity” as meaning within a 100 metre radius of the premises in question. However, it is open to an applicant to argue that, in particular instances, an objection from an “interested party” within this radius is not relevant, for example, where a major traffic route lies between the resident and the premises and noise from the premises is highly unlikely to affect the resident. It is also open to an “Interested Party” located outside of this radius to argue that a representation is valid, for example, because of a lack of buffers between them and the premises.

### 3.7 Conditions

- 3.7.1 Conditions may only be attached if relevant representations are received, and where they are necessary for the promotion of one or more of the four licensing objectives. Any such conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned.
- 3.7.2 If no relevant representations are received, the application must be granted on the terms sought, i.e. on terms that are consistent with the operating schedule submitted, and no additional conditions except the mandatory conditions can be imposed.
- 3.7.3 However, where it is considered necessary to promote one or more of the licensing objectives the Licensing Authority will consider attaching conditions, (if relevant representations are received), these may be drawn from the Pool of Model Conditions set out in Revised Secretary of State’s Guidance. This list is not exhaustive and additional conditions may be attached to premises licences and club premises certificate.

3.7.4 Conditions cannot be attached to temporary event notices.

### 3.8 Enforcement

3.8.1 The Licensing Authority has adopted an Enforcement Policy, available on the Council's web site, in accordance with the principles of consistency, transparency, proportionality and objectivity set out in the Enforcement Concordat. It conducts its inspection and enforcement procedures in accordance with the Hampton Principles referred to in the Department of Business Enterprise & Regulatory Reform (BERR) Report, in order to attain an efficient and effective regulatory inspection and enforcement programme. By adopting these principles regulation is effective and well targeted, this promotes fair, proportionate and flexible enforcement, thereby encouraging economic progress.

3.8.2 The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and any licence conditions. It will also monitor the District for unlicensed activities that require a licence.

3.8.3 The Licensing Authority has established protocols with Avon and Somerset Police Authority, Somerset County Council Trading Standards and Devon and Somerset Fire Authority on enforcement issues to ensure an efficient deployment of Police and Council Officers. Where official warnings are given prior to any decision to prosecute for an offence, the Licensing Authority shall ensure that these enforcement authorities are informed of these warnings and the result of any action taken.

3.8.4 In order to ensure compliance with the law and licensing conditions, the Licensing Authority will also carry out whenever possible unscheduled 'non routine' evening inspections with Avon and Somerset Constabulary. After each visit, the Designated Premises Supervisor and Premises Licence Holder shall be notified of any concerns and be given an opportunity to rectify any issues.

3.8.5 The Licensing Authority recognises that most Licence Holders seek to comply with the law and any enforcement action will take a graduated approach and in the first instance will include education and support. Where licence holders continue to flout the law or act irresponsibly firm action will be taken.

3.8.6 Premises have been risk rated by the Licensing Authority in order to identify which are of high, or medium or low risk and a robust inspection programme has been facilitated which targets problem premises as a priority and thereby requiring greater attention. Low risk premises that are well run will thereby benefit from a lighter touch.

3.8.7 Where one off events are taking place, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted. Inspections shall be carried out in accordance with the principles of risk assessment and targeting problem premises.

3.8.8 Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

### 3.9 Complaints Against Licensed Premises

- 3.9.1 Complainants are advised, whenever possible, in the first instance to raise their complaint directly with the licensee in order to resolve the matter. The Licensing Authority, however, recognises that it is not always possible or practical for Interested Parties to raise complaints directly. In such circumstances, complaints in the first instance should be addressed to: The Licensing Manager, South Somerset District Council, The Council Offices, Brympton Way Yeovil, BA20 2HT or e-mail [licensing@southsomerset.gov.uk](mailto:licensing@southsomerset.gov.uk).
- 3.9.2 It is expected that all noise-related complaints are initially raised with the Council's Environmental Protection Service and complaints regarding unlicensed activities and operating outside the permitted hours are raised with the Licensing Manager.
- 3.9.3 On receipt of a complaint, the Licensing Officer shall investigate the circumstances, discussing the complaint with the Designated Premises Supervisor of the licensed premises, the Premises Licence holder, any Relevant Responsible Authority and the complainant. Where it is a valid complaint, the Licensing Authority shall endeavour to seek a resolution through informal means prior to taking any legal action.
- 3.9.4 The Licensing Manager is responsible for considering complaints in the context of this Policy and will determine whether or not it is a relevant complaint. They will authorise suitably qualified officers to discharge enforcement duties as appropriate to their seniority, professional qualifications and/or experience in order to resolve any complaint.
- 3.9.5 Where there is a serious complaint, the Assistant Director (Environment), the Licensing Manager and Licensing Officers shall ensure that it is investigated and enforcement action taken where necessary. The Licensing Authority shall act in accordance with the Enforcement Policy available on the Council's web site or from Licensing Services and in accordance with the Regulators' Compliance Code: Statutory Code of Practice for Regulators.
- 3.9.6 The Licensing Authority recognises that this Policy and the promotion of the Licensing Objectives relies on partnership between all the parties. Therefore where there are any concerns identified at the premises, or there is need for improvement, the Licensing Authority shall work closely with the parties at an early stage to address these concerns.

### 3.10 Live Music, Dancing and Theatre

- 3.10.1 The Council recognises the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of the community and in particular for children and young people.
- 3.10.2 When considering applications for such events and the imposition of any conditions if representations are received on licences or certificates, the Licensing Authority will carefully balance the need to promote the licensing objectives against these wider cultural benefits.

## 4.0 Administrative Issues

In light of changes to the law regarding the EU Services Directive for online applications the Licensing Authority will accept online and electronic applications; however applications will not be treated as valid until all relevant documents have been received together with the appropriate fee.

All hard copy applications will be treated in line with the relevant regulations and all applications and relevant documentation must continue to be submitted in their entirety and not in piecemeal form to avoid the potential for any errors or confusion.

As the Regulations require advertising of all new and variation applications, the Licensing Authority recommends that the applicant contact them prior to displaying the statutory notice or advertising the application in a local paper circulating in the vicinity of the premises. This will ensure that an accurate consultation date will be given which will avoid any errors and the potential of a breach of the regulations that would result in the application being rejected or delayed.

### 4.1 Premises Licence

- 4.1.1 The Premises Licence application outlines the operating conditions and the Operating Schedule that will form the basis of conditions that will be attached to the Licence. It should include information that is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The Licensing Authority shall expect the applicant to have carefully considered the promotion of all four Licensing Objectives in their Operating Schedule.
- 4.1.2 Liaising with interested parties prior to submitting applications is good practice. The Licensing Authority recommends applicants discuss any new proposals with neighbours or any relevant community group such as a local residents association, or other such groups, as may be appropriate.
- 4.1.3 The Licensing Authority encourages applicants to liaise with the Relevant Authorities prior to submitting their applications, e.g. police or fire authority, when compiling their operating schedules and the local pubwatch if one operates in that area.

### 4.2 Garages

- 4.2.1 With regard to the licensing of garages, and/or filling stations, Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises that are used primarily as a garage. However, the Licensing Authority will use the court's approach based on intensity of use, to establish primary use. Where such applications are submitted, the Licensing Authority will expect sufficient relevant evidence to accompany the application form to prove the issue of primary use. Where there is any doubt the Licensing Manager will determine whether or not any premises are used primarily as a garage.

### 4.3 Mobile Premises

- 4.3.1 Where licensable activities take place in mobile vehicles, a Premises Licence will be required for the land upon which the vehicle operates. The Operating Schedule must indicate the specific pitch from where trading is to take place.
- 4.3.2 As this type of premises is likely to cause people to congregate, the Licensing Authority shall expect applicants to demonstrate specific measures to prevent Crime and Disorder and Public Nuisance. In addition, the Licensing Authority shall expect the applicant to consider specific measures to ensure that litter from such premises is regularly disposed of and that the licensee has adopted a Litter Policy as set out above.

### 4.4 Temporary Event Notices

- 4.4.1 The Act states that the premises user must give the Licensing Authority a minimum of 10 working days' notice for a temporary event notice. The ten working day requirement means that the day of receipt of the notice, Saturdays or Sundays, Bank Holidays, or the day of the event are not included as a working day. Notices received after the close of business are not counted as being received that day, for example if received after 16:45 on a Friday, the first working day for the notice period would be the following Tuesday.
- 4.4.2 In a significant number of cases, this time period would not allow enough time for the organiser to liaise with the fire authority, the police and the relevant Council officers to ensure that the event passes off safely with minimum disturbance to local residents. The Licensing Authority therefore requests that both it and the Avon and Somerset Police receive Temporary Event Notices **at least 28 days before the planned event.**

### 4.5 Applicants for Personal Licences

- 4.5.1 The Licensing Authority places particular emphasis on the role of premises supervisors and licensees and where the Police object on the grounds of prevention of crime and disorder there will be a presumption against issuing a personal licence to any applicant with an unspent conviction for a relevant offence. If the applicant can demonstrate exceptional and compelling reasons for disregarding the conviction, this will be taken into consideration.

### 4.6 Large Scale Events

- 4.6.1 Large Scale events of a temporary or more permanent nature will generally require detailed planning and more consultation with Responsible Authorities and possibly representatives of other organisation concerned with safety. Where there are such events, the Operating Schedule should reflect an even greater awareness of the four Licensing Objectives and it is for this reason that applicants are recommended to contact the Responsible Authorities as early as possible in the planning process.
- 4.6.2 In addition to the Statement of Licensing policy for such events it is recommended that applicants for large scale events follow the procedure as detailed in Large Scale Event Procedure which can be seen at [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk) a hard copy of the document can be obtained by requesting a copy in writing to The Licensing

Service, South Somerset District Council, Brympton Way, Yeovil, Somerset, BA20 2HT.

- 4.6.3 Organisers should be able to demonstrate that they have had regard to 'The Event Safety Guide – also known as the 'Purple Guide' and that they have carried out risk assessments suitable for the event.

#### 4.7 Reviews of Licence or Club Premises Certificate

- 4.7.1 The Licensing Act details that where a premises licence or club premises certificate has effect, an interested party or a responsible authority may apply to the relevant licensing authority for a review of the licence. The relevant licensing authority may, at any time, reject any ground for review specified in an application under this section if it is satisfied that the ground is not relevant to one or more of the licensing objectives, or in the case of an application made by a person other than a responsible authority, that the ground is frivolous or vexatious, or the ground is a repetition.
- 4.7.2 In accordance with the Policing & Crime Act 2009, a member of the Licensing Authority is an interested party and therefore may make representations or seek a review of a Premises Licence or Club Premises Certificate, of a specific licensed premises. In addition, where an Officer at the authority, or a Licensing Officer, has information that raises concerns about a licensed premises, they will be entitled to bring that information to the attention of an elected Councillor or Chairman of the Licensing Committee who may then wish to call for a review of the Licence or Certificate. Each case, however, will be treated on its own merit.
- 4.7.3 The Licensing Authority can on review of a licence or certificate, revoke the licence or certificate, suspend the licence or certificate, remove the DPS, reduce hours or licensable activity or add conditions to the licence or certificate.
- 4.7.4 The Licensing Authority recommends that Persons or Bodies considering seeking a review should discuss the matter with the Licensing Service to discuss possible alternatives and to ascertain the correct procedure.

#### 4.8 Administration, Exercise and Delegation of Functions

- 4.8.1 The Council has a Licensing Committee, consisting of 15 elected members, to carry out its licensing functions and to make licensing decisions, except those functions relating to the making of a Statement of Licensing Policy.
- 4.8.2 In the interests of speed, efficiency and cost-effectiveness the Committee will delegate certain decisions and functions to Sub-Committees and officers.
- 4.8.3 For example, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate or Police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers.
- 4.8.4 The following table sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers.
- 4.8.5 This scheme of delegation does not prevent the referral of matters to a higher authority if considered appropriate in the circumstances of any particular case.

<b>MATTER TO BE DEALT WITH</b>	<b>SUB-COMMITTEE OR FULL COMMITTEE IF APPROPRIATE</b>	<b>OFFICERS</b>
Application for personal licence, with no relevant convictions, or with spent relevant convictions		All cases
Application for personal licence, with unspent convictions	If a Police representation is made and not withdrawn	
Application for premises licence/club premises certificate	If a representation is made and not withdrawn	All other cases
Application for provisional statement	If a representation is made and not withdrawn	All other cases
Application to vary premises licence/club premises certificate	If a representation is made and not withdrawn	All other cases
Application to vary designated premises supervisor	If a police objection is made and not withdrawn	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection is made and not withdrawn	All other cases
Application for interim authority	If a police objection is made and not withdrawn	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	

## APPENDIX A GLOSSARY OF TERMINOLOGY

Cumulative Impact	Where there is a potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.
Club Premises Certificate	means a certificate granted to a qualifying club under the Act in respect of premises occupied, and habitually used for the purposes of a club. Alcohol must not be supplied other than to members by or on behalf of the club.
Entertainment facilities	are defined as facilities for enabling persons to take part in entertainment for the purpose of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).
Hot food or hot drink	<p>food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:</p> <p>(i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or</p> <p>(ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.</p>
Interested Party	<p>is defined as:</p> <p>(i) a person living in the vicinity of the premises</p> <p>(ii) a body representing persons who live in that vicinity</p> <p>(iii) a person involved in a business in that vicinity</p> <p>(iv) a body representing persons involved in such businesses.</p>
Large Scale Event	An event comprising of more than 4999 people
Licensable activities and qualifying club activities	<p>are defined in the Licensing Act as:</p> <p>(i) the sale by retail of alcohol</p> <p>(ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club</p> <p>(iii) the provision of regulated entertainment</p> <p>(iv) the provision of late night refreshment - for those purposes the following licensable activities are also qualifying club activities:</p> <p style="padding-left: 40px;">(i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place</p> <p style="padding-left: 40px;">(ii) the sale by retail of alcohol by or on behalf of a club to a</p>

	<p>guest of a member of the club for consumption on the premises where the sale takes place</p> <p>(iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.</p>
Maximum Capacity	Where the Fire Authority sets a limit on the number of people allowed in a premises, thus preventing overcrowding which can lead to crime and disorder, and concerns over public safety.
Operating Schedule	<p>means a document that must be prepared by or on behalf of an applicant for a premises licence or club premises certificate containing a statement including the following matters:</p> <ul style="list-style-type: none"> <li>• the relevant licensable activities</li> <li>• the times at which licensable activities are to take place and any other times the premises are to be open to the public</li> <li>• information about the Designated Premises Supervisor</li> <li>• whether any alcohol sales are on and/or off sales</li> <li>• the steps being taken to promote the licensing objectives.</li> </ul>
Personal Licence	authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence.
Premises Licence	authorises the premises to be used for one or more licensable activities.
Provision of late night refreshment	<p>is defined as the provision of hot food or hot drink to members of the public, or a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am or,</p> <p>at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.</p>
Regulated Entertainment	<p>is defined as:</p> <ul style="list-style-type: none"> <li>(a) a performance of a play</li> <li>(b) an exhibition of film</li> <li>(c) an indoor sporting event</li> <li>(d) a boxing or wrestling entertainment</li> <li>(e) a performance of live music</li> <li>(f) any playing of recorded music</li> <li>(g) a performance of dance</li> <li>(h) entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose of entertaining that</li> </ul>

	<p>audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).</p> <p>(i) Entertainment Facilities. This definition is subject to Part 1 of Schedule 1 to the Licensing Act 2003 (interpretation).</p>
Responsible Authority	<p>is defined as:</p> <p>(i) Chief Officer of Police for any Police area in which the premises are situated</p> <p>(ii) the Fire Authority for any area in which the premises are situated</p> <p>(iii) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated</p> <p>(iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated</p> <p>(v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health</p> <p>(vi) a body which:</p> <p>(a) represents those who, in relation to any such area, are responsible for, or interested in matters relating to the protection of children from harm, and</p> <p>(b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters</p> <p>(vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated</p> <p>(viii) in relation to a vessel:</p> <p>(a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be, navigated at a time when it is used for licensable activities</p> <p>(b) the Environment Agency</p> <p>(c) the British Waterways Board, or</p> <p>(d) the Secretary of State</p> <p>(e) a person prescribed for the purpose of this subsection.</p>
Temporary Event	<p>is defined as the use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place.</p>
Temporary Event Notice	<p>a document giving notice to the Licensing Authority of intention to hold a temporary event.</p>

## Appendix B

### CUMULATIVE IMPACT POLICY

#### 1.0 Policy Statement

- 1.1 The District Council, as the Licensing Authority, has a duty to comply with its obligations under Section 17 of the Crime and Disorder Act 1998 in respect of Crime and Disorder and to promote the four Licensing Objectives of the Licensing Act 2003.
- 1.2 The Licensing Authority is mindful of the problems that can be created when large numbers of premises providing licensable activities are located in close proximity, or where premise densities are out of character with the remaining social infrastructures of the locality. To that end, as part of the Council's Statement of Licensing Policy consultation, Avon and Somerset Constabulary asked the Council to consider adopting a special policy on cumulative impact, i.e. the potential impact on the promotion of the Licensing Objectives where there are a significant number of licensed premises concentrated in one area.
- 1.3 The Licensing Authority recognises that the impact of longer hours or concentration of premises in some areas can be greater than the impact of customers from any individual premises. Avon and Somerset Constabulary have provided the Licensing Authority with statistics evidencing that the number, type and density of premises selling alcohol for consumption is causing problems of nuisance and disorder. It is for this reason the Licensing Authority has adopted a Cumulative Impact Policy for the area. Whilst this Policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact already being experienced.
- 1.4 This Policy will not, however, be used as grounds for revoking an existing licence or certificate where relevant representations are received. After a licence or certificate has been granted, a complaint relating to a general situation regarding crime and disorder or nuisance in the town centre would not generally be regarded as a relevant representation if it cannot be positively tied or linked to a particular premises. In this context, it should be noted that the 'cumulative impact' on the promotion of the Licensing Objectives of a concentration of multiple licensed premises is only relevant when a new application, variation or material variation is being considered.
- 1.5 In its Licensing Policy Statement, the Licensing Authority stated that it would consider any recommendations put forward on cumulative impact. The police have presented evidence to support the adoption of this policy in areas of Yeovil and Chard. Following consultation, the area to which this policy will apply has been determined as the area consisting of the streets listed below. An indication of that area is as set out below:

Yeovil – Stars Lane, Middle Street, South Street from its junction with Bond Street to Stars Lane and South Western Terrace

Chard – High Street from its junction with Holyrood Street and Coombe Street in a westerly direction to its junction with Crowshute link

Fore Street from its junction with Silver Street in a westerly direction to its junction with Holyrood Street and Coombe Street

1.6 These areas have been identified because the Licensing Authority believes that the cumulative impact of the number and concentration of licensed premises in this area is adversely affecting the promotion of the following Licensing Objectives:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance

## **2.0 Objectives**

2.1 The objectives of this Cumulative Impact Policy are:

- a) To reduce both crime and disorder and public nuisance by resisting applications for licensed premises where a concentration of licensed premises in a particular area is considered to be causing a cumulative impact on one or more of the Licensing Objectives; and
- b) To review carefully all new and variation applications for licensed premises in the Yeovil and Chard town centre areas.

## **3.0 Implications on Applications and Variation**

4.0 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter, which the licensing authority can take into account. This should not, however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

3.1 The effect of adopting this Cumulative Impact Policy will be to create a presumption that an application for a new licence/certificate, or a full variation will normally be refused if relevant representations regarding crime and disorder and/or public nuisance are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Variations include, for example, extension of operating hours, an increase in capacity, or the inclusion or removal of licensing conditions; however each case will be treated on an individual basis.

3.2 However, this presumption does not relieve Responsible Authorities or Interested Parties of the need to make a relevant representation. If no relevant representations are received, the application must be granted in terms that are consistent with the operating schedule submitted and any mandatory conditions required by the Act.

3.3 There are, however, examples where licensees could rebut the presumption of refusal in this the special Policy by providing measures for inclusion in their Operating Schedule so that their licensed premises would not cause a potential problem on the cumulative impact area. Some examples of measures could be to ensure there is sufficient taxi provision to disperse customers; ensuring there are sufficient door supervisors to control flashpoints, ensuring there is an effective queuing process in place to prevent crowds gathering; working closely with the

Police and the Pubwatch scheme to discourage large numbers of people moving between premises; provision of CCTV system linked to a time and date recording facility and providing shatter proof glasses. Another examples are to ensure a calming atmosphere prior to closing time by operating a policy of lowering the volume of music and raising lights during the last 30 minutes before closing or stopping alcohol sales 30 minutes prior to closing. This list is not exhaustive.

#### 4.0 Background

4.1 A major concern in relation to Yeovil And Chard town centres is the 'binge drinking' culture and its impact on policing, the night time economy and the town centre streets. Binge drinking has increased markedly over recent years with the advent of:

- Alco-pops
- Marketing focus on young people
- Cut price alcohol promotions
- Large vertical drinking establishments
- Public Houses operating until the early hours

4.2 The designated cumulative impact area which is already of concern to some responsible authorities and has the highest levels of alcohol-related violent crime and disorder therefore if more licensed premises of the same nature were to be established it would not only impact on the Police but also on other service providers such as the ambulance service and street cleansing services.

4.3 It is believed that without this special policy and cumulative impact area, the Licensing Authority will have difficulty in fulfilling its stated licensing objectives.

#### 5.0 Evidence

##### Night Time Economy - Violence Against the Person

Area Name	NO PREMISES LINK			PREMISES LINK		
	2008/9	2009/10	Grand Total	2008/9	2009/10	Grand Total
Yeovil Central	78	70	148	98	91	189
St Benedicts (Chard)	32	36	68	8	8	16
Chard Coombe	5	10	15	17	35	52
Yeovil South	13	7	20	21	15	36

##### Night Time Economy - Violence Against the Person, in the vicinity of licensed premises

Location	Town	2008/9	2009/10	Grand Total
Stars Lane	Yeovil	45	50	95
Middle Street	Yeovil	19	13	32
High Street	Chard	12	19	31
Fore Street	Chard	4	10	14

## **Night Time Economy Anti-Social Behaviour Incidents**

<b>Area Name</b>	<b>2008/9</b>	<b>2009/10</b>	<b>Grand Total</b>
<b>Yeovil Central</b>	482	430	<b>912</b>
<b>St Benedicts (Chard)</b>	203	183	<b>386</b>
<b>Yeovil South</b>	101	91	<b>192</b>
<b>Chard Coombe</b>	101	72	<b>173</b>

## **Night Time Economy - Anti-Social Behaviour Incidents in the vicinity of licensed premises**

<b>Location</b>	<b>Town</b>	<b>2008/9</b>	<b>2009/10</b>	<b>Grand Total</b>
<b>Stars Lane</b>	<b>Yeovil</b>	34	63	<b>97</b>
<b>Middle Street</b>	<b>Yeovil</b>	26	30	<b>56</b>
<b>High Street</b>	<b>Chard</b>	13	17	<b>30</b>

### **6.0 Conclusion**

6.1 As evidenced above, the proposed cumulative impact area is presently the 'crime hot spot' of the town centre and particularly the 'violent crime hot spot' although the picture is showing some improvement. The statistics prove that violent crime is committed at weekends with the period between 11pm and 3am the focus for the majority. This continues to demonstrate the clear link between alcohol provision, the night time economy and violent crime. The conclusion drawn in respect of this evidence is that this Policy should aim to limit the numbers of new pubs, clubs and bars that focus on the sale of alcohol. The policy should also seek to ensure that other potential licensed premises seeking to sell alcohol in this area be carefully considered to ensure that they will not have a negative impact on the area.

6.2 Research shows that where there is a concentration of licensed premises, there will be the most potential for violence and disorder. This may be exacerbated by hot food takeaways situated in the same area that prolong the time it takes for crowds to disperse when licensed premises close at the end of an evening. Special consideration should therefore also be given to applications for take-away premises.

### **7.0 Review**

7.1 The Licensing Authority intends to keep this Cumulative Impact Policy under review; the review to be triggered by significant changes in the crime and disorder statistics supplied Avon and Somerset Constabulary.

7.2 It is important to note that this Policy does not seek to prevent all new or varied licence applications. All applications will be considered on their own merit whilst taking into account the aims and objectives of this Policy.