

Licensing Act 2003

(as amended)

DRAFT REVISED

Statement of Licensing Policy

FOR CONSULTATION

Date ~~25.02.14~~

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1. Background & Context

- 1.1 The Licensing Act 2003 (referred to as “the Act”) requires Licensing Authorities to publish a Statement of Licensing Policy (referred to as “the Policy”) every five years. The Act designates Local Authorities as Licensing Authorities responsible for issuing and reviewing licences for premises and club premises.
- 1.2 The purpose of the Policy is to set out Cornwall Council’s general approach to making licensing decisions
- 1.3 The Act is based around the 4 licensing objectives, which are:-
 - the prevention of crime & disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 1.4 The following licensable activities, subject to certain exemptions (as detailed in the Statutory Guidance), require an authorisation from the Licensing Authority:-
 - 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
- 1.5 It is an offence under the Act to carry on licensable activities, unless an exemption applies, without the appropriate authorisations, or to allow such activities to be carried on.
- 1.6 The Act provides for four different types of authorisation or permission, as follows:-
 - Premises Licence
 - Club Premises Certificate
 - Temporary Event Notice
 - Personal Licence
- 1.7 The types of businesses, premises and events that may require an authorisation include:-
 - pubs, bars, nightclubs
 - private members clubs
 - cinemas, theatres
 - late-opening cafes, take-aways (serving hot food or drink between 11pm and 5am)
 - community halls, village halls, schools
 - shops, supermarkets, off-licences
 - festivals, concerts, fairs

- 1.8 Licensing is about regulating licensable activities within the terms of the Act and conditions attached to various authorisations must be focussed on matters which are in the control of individual operators.
- 1.9 The Licensing Authority acknowledges that 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. However it is a key aspect of such control and will always be part of a holistic approach to the management of the evening and night time economy in town and city centres.
- 1.10 Applicants are required to have regard to the promotion of the licensing objectives when making applications. Likewise, representations on applications or a request for a review must also relate to the impact on the licensing objectives.
- 1.11 On receipt of applications, representations may be made by Responsible Authorities or 'Other Persons'.
- 1.12 The Licensing Authority's discretion is engaged on receipt of a relevant representation, and it is obliged to consider the matters of contention or concern, and determine the application by doing whatever it considers appropriate to promote the licensing objectives.
- 1.13 Every application, notice or representation will be considered on its own merits. The Licensing Authority will make decisions in accordance with the Act and with a view to promoting the licensing objectives. It will also have regard to this Policy and the Statutory Guidance.
- 1.14 This Policy and the Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. For these reasons, it may be necessary to depart from the Policy and/or Statutory Guidance. The Licensing Authority will give reasons for doing so in such circumstances.
- 1.15 The Licensing Team offer a [Licensing Direct](#) service where they are able to assist applicants, including pre-application advice, application assistance, check and send in relation to all applications under the Licensing Act 2003 and to ensure businesses have all the licences in place.
- 1.16 In addition, the Council's [Business Regulatory Support Service](#) can offer help and advice across the full range of regulatory services such as environmental health, trading standards, planning, fire etc. if required.

2. Purpose of Policy

- 2.1 The purpose of this Policy is to set out the approach that the Licensing Authority intends to take when determining applications and carrying out its duties with regard to regulation and enforcement. The policy does not seek to explain the various application processes, however guidance and advice on making an application or requesting a review of a licence is available from the Licensing Authority on request. Applicants and members

of the public are advised to contact the Licensing Authority in the event of any enquiry for appropriate advice.

The Licensing Authority, in carrying out its responsibilities under the Act, recognises:-

- The need to protect the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible operators;
- The important role which pubs and other operators play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible operators;
- The need to encourage greater community involvement in licensing decisions and give local residents the opportunity to have their say regarding licensing decisions that may affect them.

- 2.2 The Licensing Authority seeks to achieve a balance between the licensed trade, the community and other stakeholders. The Licensing Authority seeks to achieve a mutual co-existence and will work with operators, Responsible Authorities and local communities to identify and resolve issues wherever possible.

3. Local Summary

- 3.1 Cornwall is the most south-westerly part of the British mainland and covers an area of 1,376 square miles. Cornwall has a population of approximately ~~532,300~~ 553,000 people. A map of Cornwall is attached at Appendix A for information.
- 3.2 Cornwall Council is one of the largest and most geographically diverse Council areas in the country, covering coastal, rural and urban spaces.
- 3.3 Cornwall is internationally known for its industrial pre-eminence in the 18th and 19th centuries. Many local enterprises were developed or supported by land owning families while others were operated, managed, or subsequently taken over by companies outside the Duchy; Cornwall's heritage has evolved from this rich history and culture of mining and maritime industries, the legacies of which can still be seen across the Duchy. This is highlighted with the China Clay industry around the St Austell area and relics of the Tin Mining industry scattered throughout Cornwall. The fishing industries in some areas such as Padstow, Penzance, Newlyn, St Ives, Looe and Polperro are still active but have been in decline for many years, however many ports are thriving such as Penzance, Falmouth and Fowey with ship, boat building and national and international exports being the main business.
- 3.4 Today the economy depends heavily upon its successful tourist industry, which accounts for 25% of the Cornish economy. Over a one year period Cornwall welcomes over 4.5 million visitors who take part in a diverse range of activities that the Duchy provides including surfing, sailing and

visiting local attractions such as National Trust properties and gardens, the National Maritime Museum and the Eden Project. This produces an income of over £1.8 billion to the Duchy. The food and drink industry alone generates around 30% of all jobs in the Duchy and accounts for an annual turnover of approximately £1.4 billion. This links in with both the daytime and night time economy.

- 3.5 While Cornwall retains many of its traditional celebrations and festivals such as Helston Flora Day, St Piran's Day and the Obby Oss celebrations, in recent years there has been a rise in international acts performing at venues such as the Eden Project, Hall for Cornwall and Princess Pavilions. There has also been an increase in large open air events such as Boardmasters and the Looe Music Festival which cater for a diverse range of musical and cultural tastes.
- 3.6 With university campuses and subsidiaries in the areas around Falmouth, Penryn, Truro and Camborne there has been an increase in the student population of approximately 5000 with links to the Universities of Plymouth, Exeter and Camborne School of Mines. This has a major impact on the night time economy in these areas.
- 3.7 Cornwall has approximately 3000 licensed premises including pubs, night clubs, off licences, cafes, bars, village halls, members clubs, restaurants and cinemas. In addition to this an average of 2500 Temporary Event Notices are received each year.
- 3.8 As in many areas throughout the country the issue of excessive alcohol consumption, especially by young people has become a major focus of Government policy in recent years. This includes excessive drinking / harmful drinking (by children and adults) and chronic alcoholism. Both create significant social problems and are harmful to health. The issue of 'pre-loading', drinking at home prior to going out, increases the potential for violence and public order offences.

[3.9 – 3.11 to be updated – awaiting details from Community Safety]

- 3.9 Community Safety in Cornwall is a priority and the Council has introduced Safer Partnerships in various locations throughout Cornwall to resolve local crime and disorder issues and alcohol related problems. Community Safety is all about the issues that make people unsafe, or feel unsafe, in their communities. The Council has the view that achieving safer communities depends on everyone working together to find local solutions to local problems. Safer Cornwall is a collective of public, voluntary, community and private organisations who work together to do all that they can to make Cornwall's communities safer.
- 3.10 Details of Cornwall's Alcohol Strategy and Alcohol Needs Assessment can be found at www.safercornwall.co.uk

The Safer Cornwall Partnership has a number of priority towns including Bodmin, Camborne, Falmouth, Liskeard, Newquay, Penzance, Redruth and St Austell.

- 3.11 The Safer Towns initiatives are multi-agency action groups directly addressing problems in the priority towns. All action plans have a common objective to reduce alcohol related crime and anti-social behaviour, as well as to improve the local environment, reduce fear of crime and increase the satisfaction of residents with their area as a place to live. Examples of some of the issues being addressed through this initiative are:
- **Camborne** where street drinking was problematic and work with the local police, licensing service, town Council and off-licences and supermarkets in removing high volume beers and ciders from the shops reduced the problem.
 - **Newquay** combating crime and disorder, underage and binge drinking by targeting and working with local caravan and camp sites and hostels to reduce proxy purchasing has proved successful in reducing alcohol related injuries to young persons. Crime and Disorder has shown a decline due to the benefit of regular weekly meetings within the Newquay Safe Partnership during the summer months and adopting a joint working and targeted approach.

Cumulative Impact Policies

- 3.12 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 3.13 In areas where the number, type and density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder tend to occur outside licensed premises and can also be extended some distance from those premises.
- 3.14 Large concentrations of people queuing, gathering or leaving licensed premises at the same time, including late night take-aways, can lead to conflict, disorder and anti-social behaviour. Large concentrations of people may also increase the incidence of other criminal activities.
- 3.15 In addition local services such as public transport, public toilets and street cleaning may not be able to meet the demand posed by concentrations of people.
- 3.16 The effect of implementing Cumulative Impact areas is to create a rebuttable presumption that applications for grant or variation of Premises Licences which are likely to add to the existing cumulative impact will normally be refused or be subject to certain limitations, following relevant representations, unless the applicant can demonstrate that there will be no negative impact on the licensing objectives. Applicants should therefore give consideration to potential cumulative impact issues within their application in order to promote the licensing objectives.
- 3.17 The presumption that an application will be refused because the premises is in a cumulative impact area does not relieve Responsible Authorities or

Other Persons from the need to make a relevant representation. If there are no representations Licensing Authorities must grant the application in the terms sought.

- 3.18 Cumulative Impact areas are currently in place within Newquay, Truro, Penzance and Falmouth in relation to late night alcohol and late night refreshment premises. The maps showing the extent of the area within those towns are shown at Appendix B, C, D and E respectively. These were adopted in February 2007 (Newquay), January 2008 (Truro), October 2009 (Penzance) and February 2014 (Falmouth). The Licensing Authority considers that the number of premises licences in these areas is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives.
- 3.19 Evidence from the Police and Public Health in relation to the implementation of the Cumulative Impact areas is available from the Licensing Team upon request. Cumulative Impact within Cornwall will be reviewed ~~annually~~ at least every 3 years by the Licensing Act Committee.
- 3.20 The absence of a cumulative impact area does not prevent any Responsible Authority or Other Person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on the licensing objectives.
- 3.21 As part of this policy the Licensing Authority will not consider whether or not there is a *need* for any particular type of premises (as this is a matter for the local planning authority).

4. The Licensing Act Committee & Sub-Committees

- 4.1 The Licensing Act Committee (referred to as the "Committee") consists of 15 elected Members of the Full Cornwall Council.
- 4.2 A Licensing Act Sub-Committee (referred to as the "Sub-Committee") consists of 3 councillors (who will be Members of the Committee drawn on a rota basis) and will sit to hear applications where representations have been received from Responsible Authorities or Other Persons (including requests for review of Premises Licences).
- 4.3 Hearings will normally be held in public except where the Licensing Authority considers that it is in the public interest to exclude press and public from all or part of a hearing. In such cases, the Sub-Committee will resolve to exclude the press and public under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.
- 4.4 Any matter that the Sub-Committee is unable to determine will be referred to the Committee.
- 4.5 Any matter referred to Full Council for determination may be considered by a Panel appointed by the Full Council for this purpose.

- 4.6 The Committee or Sub-Committee will give clear considered reasons for all decisions. Such reasons will be recorded together with the decision in the minutes of the meeting.
- 4.7 A schedule of delegated authority is attached to the Policy for information at Appendix G
- 4.8 Procedures for the Conduct of Hearings are shown at Appendix H.

5. Personal Licences

- 5.1 Every sale of alcohol under a Premises Licence must be made or authorised by a Personal Licence Holder. There is an exception for community premises who have successfully applied to remove the requirement for a Designated Premises Supervisor (referred to as "DPS").
- 5.2 The Licensing Authority recognises that the term 'authorisation' does not imply direct supervision, and agrees with the Statutory Guidance which states a Personal Licence Holder is not required to be personally present at every transaction. However, the responsible Personal Licence Holder should be aware that they may not be able to escape responsibility for the actions of anyone authorised to make sales. Ultimately, whether an authorisation has been given is a question of fact. The Licensing Authority would strongly recommend that Personal Licence Holders give specific written authorisations to individuals who they are authorising to retail alcohol.
- 5.3 In considering whether an authorisation has been given, the Licensing Authority will have regard to the following factors:-
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 5.4 Providing an applicant meets the criteria laid down by the Act a personal licence will be granted. Qualifying individuals will:
- Be over 18 years
 - Possess an accredited qualification *
 - Provide proof of entitlement to work in UK
 - Have not forfeited a personal licence in the last 5 years.
 - Have no relevant offences, foreign offences or immigration penalties/offences

5.5 Where an applicant for a personal licence has a current criminal conviction for a relevant or foreign offence, the Licensing Authority will notify the police who will determine whether to object. If an objection is received, a hearing will be held by the Council's Licensing Act Sub-Committee in accordance with its procedure for the conduct of hearings.

5.6 Separate 'Guidance for Applicants' is available from the Licensing Team.

* Cornwall Council are an approved training provider for this course, which enables applicants to gain the qualification and apply for their personal licence at the same time all in one place.

5.7 A personal licence holder who is charged with a relevant offence is required by Section 128 of the Act to produce their personal licence to the court at their first appearance in court. If for any reason the personal licence cannot be produced, the holder must notify the court that they hold a personal licence and the reasons why it cannot be produced. Section 128 provides additional information in relation to this requirement and it is recommended that legal advice is also sought by any individual to which this section relates. Failure to comply with this section is in itself an offence, and ~~is likely to~~ may result in further prosecution proceedings being taken against the individual by the Licensing Authority.

5.8 Under Section 132 of the Act, if a holder of a personal licence is convicted of a relevant offence (when they have not notified the Court in accordance with Section 128 of the Act or if the conviction was given by another Court) or foreign offence, they must give the relevant Licensing Authority a notice stating the nature of the offence, the date of conviction and the sentence imposed on him/her.

5.9 Such a notice must be given as soon as reasonably practicable after the conviction. This notice must also be accompanied by the personal licence, or if that is not practicable, a statement of the reasons for the failure to surrender the licence. Failure to comply with this section is in itself an offence, and ~~is likely to~~ may result in further prosecution proceedings being taken against the individual by the Licensing Authority.

5.10 In accordance with the Policing and Crime Act 2017, the Licensing Authority now has the discretionary power to suspend or revoke a personal licence when they become aware of any convictions (received since 6 April 2017) for a relevant offence or a foreign offence or an immigration penalty being received. The following is the process the Licensing Authority will follow:-

- Licensing Officer gives notice to the Personal Licence Holder inviting them to make representations (within 28 days) regarding the offence, court decision and their personal circumstances.
- Licensing Officer to receive representations and forward to the Police and Licensing Compliance Team inviting them to make representations (within 14 days) on whether the licence should be suspended or revoked having regard to the crime prevention objective.

- If the Police and/or Licensing Compliance consider the Personal Licence should not be suspended or revoked, no action to be taken and the licence will remain in force.
- If the Police and/or Licensing Compliance consider the Personal Licence should be suspended or revoked, a Licensing Act Sub-Committee hearing will be scheduled to consider the representations.
- At the hearing, the Licensing Act Sub-Committee will determine whether to suspend, revoke or take no action against the Personal Licence Holder.
- Personal Licence will be updated accordingly and all parties notified.

POLICY 1

Where a hearing is necessary following police objections, the Licensing Authority will have regard to the police objection notice and will reject the application if it considers it appropriate for the promotion of the crime prevention objective.

REASONS: *Prevention of crime and disorder is an objective of the Act and an important responsibility of the Licensing Authority under the Crime and Disorder Act 1998. A personal licence holder should be a responsible person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a person with a criminal record may undermine rather than promote the crime prevention objective.*

6. Designated Premises Supervisor

- 6.1 Any Premises Licence that authorises the sale of alcohol must specify a Designated Premises Supervisor (referred to as "DPS"). There is an exception for community premises who have successfully applied to remove the requirement for a DPS.
- 6.2 The Statutory Guidance states that the DPS will normally be the person who has been given day-to-day responsibility for running the premises by the premises licence holder.
- 6.3 No supply of alcohol is permitted under a premises licence if there is no DPS in respect of the licence. The same applies if the DPS specified on the licence does not have a Personal Licence or it has been suspended.
- 6.4 It should be noted the police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment will undermine the crime prevention objective.
- 6.5 Separate Guidance for Applicants to vary a DPS is available from the Licensing Team.

- 6.6 Where an objection is received from the police, a hearing will be held by the Council's Licensing Act Sub-Committee in accordance with its Code of Conduct for hearing applications.
- 6.7 A DPS can be removed from a Premises Licence following a hearing of a Review Application, where appropriate for the promotion of the licensing objectives.
- 6.8 A DPS can also request the Licensing Authority to remove him/herself from a Premises Licence with immediate effect.

POLICY 2

Where a hearing is necessary following police objections, the Licensing Authority will have regard to the police objection notice and will refuse to specify the individual as DPS or refuse to grant an application to vary a DPS on a Premises Licence, if it considers it appropriate for the promotion of the crime prevention objective.

REASONS: *Prevention of crime and disorder is an objective of the Act and an important responsibility of the Licensing Authority under the Crime and Disorder Act 1998. A DPS must be a responsible person who is not only properly qualified but a person who will assist the fight against crime. Designating an unsuitable person as a DPS may undermine rather than promote the crime prevention objective.*

Community Premises

- 6.9 Certain community premises, such as a church or village hall, that wish to sell alcohol may apply to have an alternative mandatory licence condition instead of designating a DPS on the licence. The application may only be made if the operator is or is to be, a committee or board of individuals with responsibility for management of the premises, referred to as the "Management Committee".
- 6.10 The Management Committee will be required to provide details which include how the premises is managed, its committee structure and how the sale of alcohol is supervised in different situations (when the hall is hired to private parties, for example).
- 6.11 If the alternative licence condition is granted, the effect is that the Management Committee will be responsible for the supervision and authorisation of all alcohol sales. There will be no requirement for a DPS or for alcohol sales to be authorised by a Personal Licence Holder.
- 6.12 It should be noted the police, in exceptional circumstances, may object to a request for inclusion of the alternative licence condition on the grounds of crime and disorder.

- 6.13 Where an objection is received from the police, a hearing will be held by the Council's Licensing Act Sub-Committee in accordance with its Code of Conduct for hearing applications.
- 6.14 The mandatory licence condition requiring a DPS can be reinstated following a hearing of a Review Application, where appropriate for the promotion of the licensing objectives.

7. Premises Licences / Club Premises Certificates

- 7.1 'Premises' is defined in the Act as meaning any place and includes a vehicle, vessel or moveable structure.
- 7.2 Any reference to 'Premises Licence' in this section means a Premises Licence or Club Premises Certificate unless otherwise stated.
- 7.3 Premises Licences are required to authorise licensable activities. The procedures for making an application are set out in the Act and accompanying regulations. Separate guidance notes for applicants are also available from the Licensing Team. Applicants should be aware that failure to make an application in accordance with the statutory requirements will result in the application being rejected by the Licensing Authority.
- 7.4 The procedures and legal requirements for premises and club premises are largely similar but there are differences, and further information and advice on specific circumstances may be obtained from the Licensing Team.
- 7.5 Applicants should ensure that they make their application in plenty of time as applications for Premises Licences can take 8 weeks or more to process.
- 7.6 Applicants for the grant or variation of a Premises Licence are required to assess the proposed operation of the premises and include in the operating schedule measures that they consider will promote the licensing objectives. Applications that do not adequately address the licensing objectives are more likely to be subject to representations. In such cases, it will be necessary for the Licensing Authority to determine the application taking such steps as it considers appropriate to promote the licensing objectives.
- 7.7 Applicants are required to provide certain information as part of the application, and to advertise a summary of the application in accordance with the [regulations](#) Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. Applicants are encouraged to provide a description of the nature of the premises operation that will inform responsible authorities and other persons and will assist them in assessing the likely impact on the licensing objectives.
- 7.8 The Licensing Team offer a [Licensing Direct](#) service where they are able to assist applicants to get their application right first time with various

services offered, including 'pre-application advice', 'application assistance', 'check and send'.

Provisional Statement

- 7.9 There are certain circumstances under the Act where an application for a provisional statement may be made. An example would be where a premises has not yet been built and the operator would like assurance that a licence would be granted before construction.
- 7.10 Where a provisional statement has been issued, the operator is then likely to submit an application for the grant of a licence. There are limits on what representations can be allowed. Separate guidance and advice is available from the Licensing Team in this regard.

Licensing Hours

- 7.11 Operating schedules should include the proposed hours for each of the proposed licensable activities together with the hours when the premises will be open to the public. Any seasonal differences and non-standard timings should be included.
- 7.12 The Licensing Authority agrees with the Government that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas.
- 7.13 The Licensing Authority will carefully balance considerations under the Act against its duty to promote the licensing objectives and protect the rights of local residents and businesses who may be affected by licensed premises. The Licensing Authority aims to reduce anti-social behaviour associated with drunkenness.
- 7.14 The Licensing Authority would encourage Operators to work in partnership to achieve this aim. The Licensing Authority may also consider the implementation of other measures to achieve this aim such as Early Morning Restriction Orders and/or implementation of a Late Night Levy. Details regarding these measures are explained later in the Policy.
- 7.15 Applications could result in representations being received in relation to proposed hours of operation. In these circumstances the Licensing Authority will consider each application on its own merits.
- 7.16 The Licensing Authority may reject, amend or approve the hours requested together with additional conditions, if considered appropriate, in order to promote the licensing objectives.
- 7.17 Unless there are good reasons for restricting hours of operation, shops, stores and supermarkets will be permitted to sell alcohol for consumption off the premises at any times when the retail outlet is open for shopping.

Mandatory Conditions

7.18 There are Mandatory Conditions under the Act that apply to all Premises Licences. These relate to the following matters:-

- Designated Premises Supervisors
- Authorisation by Personal Licence Holders
- Irresponsible promotions
- Free tap water
- Age verification
- Smaller measures of alcohol
- Exhibition of films
- Door Supervision

7.19 Full details are available in the Statutory Guidance or on request from the Licensing Team. Applicants should be fully aware of the mandatory conditions so they do not replicate them in the operating schedule within their application.

Operating Schedules

7.20 The operating schedule must include a general description of the premises.

7.21 If the application proposes off-sales of alcohol and it is intended to provide a place for consumption, a description of where the place will be and its proximity to the premises within the general description of the premises must be included. The plan submitted with the application should indicate the area for consumption.

7.22 The Licensing Authority when issuing a Premises Licence may apply conditions that are consistent with the operating schedule, and this may include conditions that will restrict the premises to the style of operation set out in the application. This is necessary to ensure that applicants do not significantly alter the style of operation without making an application to the Licensing Authority, which will then be assessed against the licensing objectives as required by the Act.

7.23 The applicant must highlight in the operating schedule any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

7.24 There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 for adult entertainment on an infrequent basis (ie no more than 11 occasions within a 12 month period) that would otherwise require a Sexual Entertainment Venue Licence. In order to benefit from the exemption, applicants should highlight any adult entertainment in the operating schedule and there must be no conditions on the premises licence restricting adult entertainment and the premises licence must also authorise performance of dance.

- 7.25 If no adult entertainment is highlighted, or the applicant states none is to be provided, no authorisation exists for adult entertainment. In these circumstances the Licensing Authority will impose the following condition on any licence issued:-

"There must be no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children."

- 7.26 Operators must be clear about the activities and times at which events would take place to determine when it is not appropriate for children to enter the premises. In addition at times when it is appropriate for children to be on the premises, operators should set out steps to be taken to protect children from harm."
- 7.27 The applicant, if the premises are in a cumulative impact area, must demonstrate in the operating schedule of their application that there will be no negative cumulative impact on the licensing objectives, for example include measures that will be taken to mitigate the impact.
- 7.28 The Licensing Team are able to assist applicants with completion of operating schedules through our [Licensing Direct](#) services. It is also suggested that applicants may find it helpful to seek the views of relevant Responsible Authorities before formally submitting their application as a useful source of expert advice on local issues that should be taken into consideration when making an application. ~~In order to demonstrate there will be no negative impact on the licensing objectives, it is recommended that applicants put a general statement in 'Section A – General' of the Operating Schedule explaining the assessment and their outcomes. This recommendation has been included in the Policy.~~

Licensing Objectives

- 7.29 Different premises styles and locations will inevitably impact differently on the licensing objectives and will require different measures to be put in place according to the individual circumstances.
- 7.30 Applicants, in order to sufficiently assess the potential risk or impact that the proposed operation of the premises will have on the licensing objectives, are expected to understand the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate.
- 7.31 Applicants are expected to include positive proposals in the operating schedule on how they will manage any potential risks that could impact on the licensing objectives.
- 7.32 It would be useful and informative, where it is considered by the applicant that no additional measures are necessary to promote any of the licensing objectives, to include information within the application in order to reduce the likelihood of representations being received.

- 7.33 The Licensing Authority encourages applicants to liaise with Responsible Authorities as appropriate when drafting operating schedules as part of the application, as this could also reduce the likelihood of representations being received. A list of Responsible Authorities with contact details is shown at Appendix J.
- 7.34 To assist applicants, a range of measures which could be considered when compiling premises operating schedules are detailed within the Statutory Guidance. Further examples are listed at Appendix I; these are intended as a guide and is not an exhaustive list of measures. A risk assessment approach is recommended to applicants in identifying the risks and measures in relation to their individual application.

[It is the intention of the Licensing Service to liaise with all responsible authorities and update the measures in Appendix I as part of this policy review. Appendix I will therefore be updated with the agreement of the relevant responsible authorities and brought back to the Licensing Act Committee in due course.]

POLICY 3

Applicants are required to include in their operating schedules, measures that are appropriate to promote the licensing objectives.

These should include:-

- a) Measures which are considered appropriate to promote public safety and the prevention of crime & disorder, or reasons why no measures are considered necessary.**
- b) Measures which make adequate provision to control the adverse effects of noise, disturbance, smells, extraneous lighting, defacement of property, containment of solid and liquid waste; and in particular: -**
 - Restrict the generation of noise within the premises and from activities associated with the premises in the vicinity of the premises;**
 - Limit the escape of noise from the premises;**
 - Restrict noise emissions to levels below that which could affect people in the vicinity going about their business at work and when at home.**
 - Minimise and control noise from customers arriving at the premises, outside it and departing from the premises;**
 - Minimise and control noise from staff, contractors and suppliers and their activities;**
 - Minimise and control noise from vehicles associated with and providing services to the premises and their customers.**

c) Measures that make adequate provision to protect children from harm. This will include measures to ensure that children are not permitted to access age restricted products (e.g. alcohol), and are protected from exposure to inappropriate activities or material (such as sexual or other adult entertainment and advertisements in relation to such entertainment). The protection of children from harm will be taken in the widest context and may therefore include issues related to morality, psychological harm, physical harm and health related issues. This could also include criminal record checks for staff or entertainers providing entertainment or activities for children.

POLICY 4

The Licensing Authority will continue to work in partnership with Responsible Authorities and Other Persons (including representatives of the licensed trade) to identify and establish best practice initiatives. This will include reduction of harm from alcohol and working in partnership with Public Health Cornwall, to achieve this aim. Operators will be expected to participate in/with appropriate initiatives aimed at promoting the licensing objectives

REASONS: *to ensure that operators / applicants take all reasonable steps to promote the licensing objectives and to achieve a balance between the interests of the licensed trade and those of the wider community who are likely to be affected by the operation of licensed premises.*

- Crime and disorder in connection with licensed premises is often related to excessive drinking, and the impact of drunken anti-social behaviour is intimidating and distressing to local residents. It is incumbent on applicants to demonstrate how their premises will be properly managed to minimise any negative impact against all the licensing objectives.*
- One of the greatest irritations to residents trying to sleep is the sound of music escaping from licensed premises. Such an escape of sound might preclude the grant of a licence or if one has already been granted, it might cause it to be reviewed and restricted or revoked. It might also lead to a noise abatement notice being issued under the Environmental Protection Act 1990. Responsible applicants and operators will wish to avoid the need for such action, as they will wish to comply with the licensing objective of preventing public nuisance.*
- People leaving licensed premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers under the influence of alcohol are often less inhibited about their behaviour and may be unaware of the noise they are creating. This is exacerbated by the fact that this tends to happen later at night when ambient noise levels are naturally low, and the ensuing noise is therefore even more intrusive.*
- Dispersal of customers once they have left licensed premises is also an area of concern, and often leads to anti-social behaviour and alcohol related crime. In addition, exacerbated by the smoke free legislation, is the need to control the behaviour and number of persons in outside areas*

of licensed premises such as beer gardens, and designated smoking areas or by customers in the vicinity of the premises.

- *Public safety is about protecting the safety, and even lives, of persons who work on the premises, performers and customers. Operators should take a risk assessment approach to identify potential hazards and put in place appropriate and proportionate measures to minimise such risks.*
- *The welfare of children and the protection of children from exposure to adult activities and/or material is crucial to their well being. Exposure to inappropriate material may have an adverse impact on their actions in relation to anti-social behaviour and alcohol related crime.*

Determination of applications

- 7.35 Where an application is properly made and no Responsible Authority or Other Person makes representations, the Licensing Authority must grant the application, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act.
- 7.36 In accordance with the Statutory Guidance, measures in the applicant's operating schedule will be replicated as conditions of licence in a form which is clear and enforceable and which reflects the applicant's intention.
- 7.37 Where representations are made by a Responsible Authority or relevant representation made by an Other Person, the Licensing Authority's discretion will be engaged. ~~The Licensing Authority provides~~ Representation forms, together with guidance on making representations is available from the Licensing Team, to assist those wishing to make representations.
- 7.38 The Licensing Authority can only accept representations from Other Persons if they are relevant to the licensing objectives and are not vexatious or frivolous. The Licensing Authority will have regard to the Statutory Guidance when determining the validity of representations from Other Persons. Where representations are rejected, reasons will be given.
- 7.39 Where a Responsible Authority or Other Person has made a valid representation, the Licensing Authority may ~~encourage~~ offer mediation between all parties to address and clarify the issues of concern and where possible identify potential solutions.
- 7.40 This process will not override the right of any Responsible Authority or Other Person to have their representation considered by the Licensing Act Sub-Committee as part of the hearing process.
- 7.41 In certain circumstances, mediation can result in an applicant agreeing to amend their proposals, which may negate the requirement for a **full** hearing if all parties agree.
- 7.42 It will be recommended to the Sub-Committee, when all parties agree that a hearing is unnecessary, that it approves the application in the terms

sought subject to the agreement reached. This is known as a 'Hearing by Documentation' and avoids the need for any party to attend a meeting.

- 7.43 Where an agreement has not been reached following the receipt of representations, the application will be heard and determined by the Sub-Committee.
- 7.44 The Licensing Authority will not impose any conditions unless its discretion has been engaged following receipt of relevant representation and it is satisfied as a result of a hearing that it is appropriate to impose conditions for the promotion of the licensing objectives.
- 7.45 The Licensing Authority will avoid attaching conditions that duplicate other regulatory regimes as far as possible. It will consider the statutory provisions of other legislation as an alternative to imposing a condition where such legislation deals with the area of concern that has been raised.
- 7.46 The Statutory Guidance encourages the use of the words such as 'must', 'shall' and 'will' within licence conditions. The guidance also states that conditions must:-
- be appropriate for the promotion of the licensing objectives;
 - be precise and enforceable;
 - be unambiguous and clear in what they intend to achieve;
 - not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - be tailored to the individual type, location and characteristics of the premises and events concerned;
 - not be standardised as they may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - not replicate offences set out in the Act or other legislation;
 - be proportionate, justifiable and be capable of being met;
 - not seek to manage the behaviour of customers once they are beyond the direct management of the operator and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - be written in a prescriptive format.
- 7.47 The Licensing Authority will have regard to the Statutory Guidance when writing conditions or interpreting measures into conditions from operating schedules.

POLICY 5

Applications will be considered on their merits together with the information provided to the Licensing Authority. When determining applications, the Licensing Authority will consider all options including: -

- **Approve as applied for**
- **Approve with additional and/or amended conditions**
- **Approve with the exclusion of certain licensable activities**
- **Refuse to specify a person as the DPS**
- **Refuse application**

***REASONS** – to do whatever is appropriate, reasonable and proportionate to promote the licensing objectives.*

POLICY 6

Where in the opinion of the Licensing Authority, following receipt of representations, and having considered the submissions from all parties, an application for a Premises Licence is likely to undermine any of the four licensing objectives, and this cannot be resolved through the imposition of conditions, restrictions or regulated by other legislation, the application will be refused.

***REASONS** – in accordance with the Licensing Authority's obligations to promote the licensing objectives.*

Minor Variations

7.48 The Act allows for applications to be made for minor variations to a Premises Licence in certain circumstances. An application to vary a licence under this simplified process can only be determined where it can be shown that the application will not have any adverse effect on the promotion of any of the licensing objectives.

7.49 The application must be advertised in accordance with the regulations. Separate Guidance for Applicants is available from the Licensing Team.

7.50 A minor variation application may be appropriate for operators who wish to make a small, low-risk change to a Premises Licence, eg:-

- removing or adding a licensable activity
- change timings
- add or remove conditions
- making small changes to the layout of the premises

7.51 Variations to the following are excluded from the minor variations process and a full variation must be applied for:-

- to extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
 - to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.
- 7.52 Advice in relation to whether or not proposals will be considered to be 'substantial variations' can be obtained from the Licensing Team prior to the application being submitted.
- 7.53 If a valid objection is received, the application may be refused under delegated authority. There is no provision under the Act for hearings of minor variation applications. In addition, there is no right of appeal against refusal of a minor variation application. However, operators can submit an alternative minor variation application or apply for a full variation if appropriate.
- 7.54 The full variation process is very similar to the application process for a new premises licence and the fee is the same. You should use this process if you want to make a substantial change to your licence, for example, increasing the hours when you sell alcohol. Alternatively you may prefer to apply for a new premises licence. Advice on the various application processes can be obtained from the Licensing Team.

Transfer of Premises Licence

- 7.55 The Act provides for any person who may apply for a Premises Licence to apply for a Premises Licence to be transferred to them. Separate Guidance for Applicants is available from the Licensing Team.
- 7.56 The Act provides a mechanism for the transfer to have immediate interim effect, until it is formally determined.
- 7.57 ~~In exceptional circumstances~~ The Police may object if they believe the transfer may undermine the crime prevention objective, in which case a hearing of the Sub-Committee will be arranged.
- 7.58 The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises.
- 7.59 Objections from the Police or Home Office are expected to be rare and should arise only if there is evidence that the business or individuals are involved in crime or disorder or employing illegal workers.

POLICY 7

Where a hearing is necessary following an objection from the Police or Home Office, the Licensing Authority will have regard to the objection and will refuse the transfer of premises licence, if it believes the transfer may undermine the crime prevention objective, or if it considers that

granting the transfer would be prejudicial to the prevention of illegal working in licensed premises.

REASONS: *Prevention of crime and disorder is an objective of the Act and an important responsibility of the Licensing Authority under the Crime and Disorder Act 1998.*

Appeals

7.80 All parties may appeal to the Magistrates' Court against a decision of the Licensing Authority in relation to a premises application. The appellant must give notice of appeal to the Magistrates Court within 21 days from when the appellant was notified by the Licensing Authority of the decision which is being appealed.

Interim Authorities

7.81 A Premises Licence will lapse in the event of the licence holder dying, becoming bankrupt or mentally incapable. However, there are special arrangements for an interim authority notice to be given by an individual to re-instate the Premises Licence within 28 days of the licence lapsing. The effect of the notice is that licensable activities can continue to take place for a maximum of 3 months to allow the Transfer of the Licence.

Annual Fees

7.82 The Act requires the Licensing Authority to suspend a Premises Licence if the annual fee is not paid when due, unless there is an administrative error or the operator has disputed liability.

7.83 The Licensing Authority will endeavour to remind operators when annual fees are due.

7.84 The preferred method of annual fee payment is online at:-
<http://www.cornwall.gov.uk/pay-it/>

Early Morning Restriction Order

7.85 As well as Cumulative Impact Policies, other mechanisms to address problems can include powers introduced by the Police Reform and Social Responsibility Act 2011, such as Early Morning Alcohol Restriction Orders ("EMROs") or the Late Night Levy ("LNL").

7.86 An EMRO allows local authorities to look at restricting the sale of alcohol at a specified time between the hours of midnight and 6:00am and applies to Premises Licences, Club Premises Certificates and Temporary Event Notices.

- 7.87 EMROs are intended to deal with alcohol-related crime and disorder, anti-social behaviour, and serious public nuisance, which is not directly attributable to licensed premises. Licensing Authorities are encouraged to look at the relationship between their existing cumulative impact areas and a proposed EMRO area.
- 7.88 An EMRO can apply to a specific area (ie a cumulative impact area), a town or even a single street; it does not need to be Cornwall wide. It can apply to specific days of the week, different times for different days of the week, and can apply to limited periods of the year or for an unlimited period. It cannot apply on New Year's Eve/New Year's Day.
- 7.89 EMROs only affect the sale of alcohol and do not affect authorised hours for regulated entertainment or late night refreshment.
- 7.90 The adoption of an EMRO is subject to a process involving the collection and analysis of relevant evidence and consultation with operators and the public.
- 7.91 EMROs must be periodically reviewed to ensure they remain appropriate to promote the licensing objectives and can be varied or revoked via the same process as that for adoption.
- 7.92 Cornwall Council does not currently intend to introduce any EMROs within its area. If this changes in the future, a full consultation would be carried out with persons affected.

Late Night Levy

- 7.93 A Late Night Levy (LNL) is an optional power, introduced by the Police, Reform and Social Responsibility Act which permits Licensing Authorities to raise a contribution towards the costs of policing the night time economy by charging a levy to licence holders who are authorised to sell alcohol. A LNL must apply across the whole of Cornwall and applies to on and off licences, however TENs are not included.
- 7.94 A LNL requires that a levy is paid by those persons who are authorised to sell alcohol between the period specified in the LNL regardless of whether they are actually open during that period. This can be no earlier than midnight and no later than 6.00am and must be the same period every day.
- 7.95 At least 70% of the levy must be paid to the Police and Crime Commissioner. There are no restrictions on what the police portion can be used for. The Local Authority portion can be used to tackle alcohol-related crime and disorder and to support management of the night time economy in line with the reduction of crime and disorder, promotion of public safety, prevention of public nuisance and street cleansing.
- 7.96 The Licensing Authority may deduct the costs of preparing, publicising and administering the levy (subject to regulations) before paying the police proportion.

- 7.97 Prior to any implementation, the Licensing Authority would consider the potential financial risk, if lower than expected revenue is received, as the police portion must be paid regardless of whether the levy has been collected in full.
- 7.98 If implemented, Licence Holders affected can make a variation application, free of charge, in order to avoid being affected by the levy.
- 7.99 If implemented, the levy will apply indefinitely. However it must be reviewed at regular intervals and may be ceased at the end of a levy year.
- 7.100 Cornwall Council does not currently intend to implement a LNL in Cornwall. If this changes in the future, a full consultation would be carried out with persons affected.

8. Reviews of Premises Licence / Club Premises Certificate

- 8.1 The review process is integral to the operation of the Act. If problems arise in connection with a premises, any Responsible Authority or Other Person can apply for a review of the premises licence.
- 8.2 An application for review must relate to a particular premises and must be relevant to the promotion of the licensing objectives. Applications for review must be made in accordance with the regulatory requirements. Guidance on the correct procedure can be sought from the Licensing Team before making an application for review.
- 8.3 The procedures for making an application are set out in the Act, accompanying regulations and the guidance notes for applicants. Applicants should be aware that failure to make an application in accordance with the statutory requirements will result in the application being rejected by the Licensing Authority.
- 8.4 When an application has been received, any Responsible Authority or Other Person may submit a representation in respect of the review application.
- 8.5 The Licensing Authority can only accept representations from Other Persons if they are relevant to the licensing objectives and are not vexatious or frivolous. The Licensing Authority will have regard to the Statutory Guidance when determining the validity of representations from Other Persons. Representation forms, together with guidance on making representations is available from the Licensing Team, to assist those wishing to make representations. Where representations are rejected, reasons will be given.
- 8.6 All review applications must result in a hearing of the Sub-Committee.

- 8.7 Mediation is encouraged between all parties to address and clarify the issues of concern and where possible identify potential solutions. However, it will be for the Sub-Committee to hear the application and determine the appropriate outcome.
- 8.8 The Act requires that the Licensing Authority must, having regard to the application and any relevant representations, take such of the steps mentioned in the Act as it considers appropriate for the promotion of the licensing objectives.
- 8.9 The Licensing Authority recommends applicants, operators and event planners communicate with people living and working in the vicinity of the premises / land proposed to be used for licensable activities. This may enable potential / actual areas of concern to be identified and addressed without the need for direct involvement by the Licensing Authority.

Summary Reviews (expedited)

- 8.10 Where there is serious crime and/or serious disorder the Police may apply for an expedited review under Section 53a-53d of the Licensing Act. An expedited review is necessary where a police officer of superintendent or higher rank, has certified to the Licensing Authority that premises licensed for the retail sale of alcohol have been associated with serious crime and/or serious disorder.
- 8.11 Expedited reviews can only be submitted in relation to Premises Licences and not Club Premises Certificates.
- 8.12 The Home Office has published guidance separate to the Statutory Guidance in relation to expedited reviews which the Licensing Authority will have regard to.
- 8.13 Following receipt of a certificate and review application, licensing authorities must hold a hearing within 48 hours to determine whether to take any 'interim steps'. These steps could include:-
- modifying the licence conditions
 - excluding the sale of alcohol
 - removing the DPS from the licence
 - suspending the licence

The interim steps may take immediate effect, or may be delayed.

- 8.14 Following consideration of any interim steps, the Licensing Authority is also required to process and determine the full review application.
- 8.15 The Licensing Authority will not impose any conditions unless its discretion has been engaged following a review application and/or receipt of relevant representations and it is satisfied as a result of a hearing that it is appropriate to impose conditions to promote one or more of the licensing objectives.

POLICY 8

All reviews will be considered on their merits together with the information provided to the Licensing Authority. In determining the review, the Licensing Authority will consider all options including: -

- **No action**
- **Informal warning**
- **Imposition / modification of conditions**
- **Refusal to specify an individual as Designated Premises Supervisor (DPS)**
- **Removal of existing DPS**
- **Restriction of regulated activities / hours of operation**
- **Suspension of licence**
- **Revocation of licence**

REASONS – *to do whatever is appropriate, reasonable and proportionate to promote the licensing objectives.*

POLICY 9

Where in the opinion of the Licensing Authority, having considered the review application and submissions from all parties, the operation of the premises is likely to undermine any of the four licensing objectives, and this cannot be resolved through the imposition of conditions, restrictions or regulated by other legislation, the Premises Licence will be revoked

REASONS – *in accordance with the Licensing Authority's obligations to promote the licensing objectives.*

9. Temporary Event Notices

- 9.1 Some small-scale events (no more than 499 in attendance), depending on the circumstances may be held under the authority of a Temporary Event Notice (TEN). There are various restrictions in respect of both individuals and premises, and event organisers are strongly advised to obtain advice well in advance of the event, as if restrictions are exceeded a Counter-Notice will be issued. Guidance and assistance is available from the Licensing Team.
- 9.2 There are two types of TEN; a standard TEN and a late TEN. A standard TEN must be served not less than 10 working days prior to the event. A late TEN must be served not later than 5 working days prior to the event; in either case the date of service or the first day of the event is not included in the working days notice required.
- 9.3 Anyone over the age of 18 can submit a maximum of 5 TENs per year, 2 of which can be late TENs. A Personal Licence Holder can submit a maximum of 50 TENs per year, 10 of which can be late TENs.

- 9.4 Unless a TEN is submitted electronically via the Council's online web form ([online TEN form](#)) or via www.Gov.uk the TEN must be served on the Licensing Authority, the Police and the Council's Community and Environmental Protection Team ('CCEP'). If the TEN is submitted electronically the Licensing Authority will notify the Police and CCEP.
- 9.5 Only the Police and CCEP may object to a TEN, which must be within 3 working days from their receipt of the TEN, where they consider that the event is likely to undermine any of the licensing objectives.
- 9.6 If an objection is received to a standard TEN, it is possible for the Police or CCEP to modify the TEN if the premises user agrees. Otherwise a hearing will take place if the TEN is not withdrawn.
- 9.7 If an objection is received to a late TEN there is no provision for any modification, hearing or adding existing conditions and a Counter Notice will be issued preventing the event from going ahead.
- 9.8 In practice the timescales in relation to TENs are unlikely to be sufficient, if the notice is not submitted early enough, to allow any concerns to be resolved, and organisers are therefore advised to give as much notice as possible. In the event that a hearing is held and a counter (refusal) notice issued by the Licensing Authority, it is unlikely that there will be sufficient time for any appeal to be heard by the Magistrates.
- 9.9 Organisers are strongly advised to ensure that adequate safety measures (including the recorded findings of a fire risk assessment) are in place in relation to any temporary event. Any event held under a TEN may be subject to inspection by officers from Responsible Authorities.
- 9.10 Event organisers should be aware that authorisation of licensable activities under a TEN does not remove the requirement for an event organiser to ensure that all other permissions are in place, e.g. planning, and also that the land/premises owner has given their consent for the event to take place.
- 9.11 Event organisers should also complete an 'Event Notification Form' so that all relevant services of the Council can be made aware of events – please see link www.cornwall.gov.uk/events for more information including an [Events Toolkit](#) and [Risk Assessment](#) guidance.
- 9.12 For any events taking place on Cornwall Council land or property, an Event Notification Form, risk assessment and proof of public liability insurance must be submitted to eventplanning@cornwall.gov.uk. Cornwall Council also encourage this practise for all events; it is the event organiser's responsibility to ensure necessary risk assessments have been carried out as well having adequate public liability insurance at all events.
- 9.13 Cornwall Council also encourages Town/Parish Councils and other organisations to follow this practice for their events. It is the event organiser's responsibility to ensure necessary risk assessments have been carried out as well having adequate public liability insurance at all events.

- 9.14 The Licensing Authority will advise other Responsible Authorities and agencies of TENs served. Those authorities may address issues of concern under their own regulatory powers.

POLICY 10

All Temporary Event Notices will be considered on their merits together with the information provided to the Licensing Authority. In determining TENs, the Licensing Authority will consider all options including: -

- **Authorise event in accordance with notice**
- **Imposition of existing premises licence conditions**
- **Issue of counter (refusal) notice**

REASONS – *to do whatever is appropriate to promote the licensing objectives.*

10. Electronic Applications

- 10.1 The Licensing Authority encourages operators to apply for authorisations, where possible, electronically. Operators can do this by using the application forms that are available on www.GOV.UK or the Council's own electronic facility in respect of Temporary Event Notices - [online TEN form](#). There is a link for each application process on the Council's website within the Licensing pages. Submitting a full application electronically saves the necessity to serve paper copies on Responsible Authorities.
- 10.2 If an operator submits any part of their application in writing, the operator will remain responsible for copying it to Responsible Authorities.
- 10.3 In all cases, the operator is responsible for advertising, where applicable, their application in the normal way.
- 10.4 Assistance is available from the Licensing Team through its [Licensing Direct](#) service if required.

11. Enforcement

- 11.1 ~~In its Autumn Statement of 2012 the Government proposed certain measures to improve the way regulation is delivered at the frontline. The Regulators Compliance Code* provides a flexible, principles based framework for regulatory delivery and Cornwall Council Licensing Authority will apply these principles in its delivery of the regulatory function.~~
- ~~———— * will be known as the Regulators' Code from 1 April 2014.~~

- 11.1 The Council complies with the Regulators' Code, which provides a flexible, principles based framework in its delivery of the regulatory function.

- 11.2 ~~The Licensing Service~~ Cornwall Council's Licensing Compliance Team will adopt a proportionate and transparent approach to those businesses it regulates encouraging a, 'comply and grow' approach to regulation assessing whether a similar social, environmental and economic outcome can be achieved by a less burdensome means.
- 11.3 It is the responsibility of operators of licensed premises to provide appropriate training for their staff to ensure the promotion of the licensing objectives.
- 11.4 The Licensing Authority's Enforcement Policy (available on request) sets out a range of actions that are available where offences against licensing legislation are found or where licence conditions have been contravened. A balanced and transparent approach will be taken and each case will be judged on its own merits. For example, depending on the circumstances, an isolated and minor offence will in the first instance be dealt with by way of help and advice or in some cases a written warning. Offences of a more serious nature or offences which have either been committed over a period of time or which jeopardise public safety may result in prosecution and/or review of licence, however the latter will be a last resort when all other avenues have been unsuccessful or the matter is of such a serious nature this is the only option.
- 11.5 The Licensing Authority will share information with other agencies in relation to compliance and risk and will seek to work with the police and other enforcement agencies in enforcing the licensing legislation, which may include participation in planned operations. This will include information sharing about licence holders and licensed premises. A joint enforcement protocol has been drawn up with the police and other relevant statutory agencies.

POLICY 11

A risk based approach will be undertaken when conducting inspections. Premises will be subject to both planned and unannounced inspections (including multi-agency inspections and test purchase inspections). Problem and 'high risk' premises will be subject to a higher level of scrutiny than well run, low risk premises and such premises are more likely to receive more regular inspections.

REASONS – *to ensure compliance with the law and the conditions of Premises Licences*

12. Strategies, Services & Partnerships

Event Planning

- 12.1 Advice on licensing requirements should always be obtained at an early stage in planning any event to ensure that there is sufficient time to allow an application to be processed. An application for a Premises Licence may take 8 weeks or more to process.

- 12.2 The Council has an Event Notification procedure in place in order to assist event organisers and it is recommended an Event Notification form is completed at least 6 months prior to the event.
- 12.3 Event organisers are encouraged to visit the Council's Events web page: www.cornwall.gov.uk/events and complete the Event Notification form so that all relevant services (ie Council and Emergency Services) can be made aware of the event. The Event Planning Team will then advise on which permissions and licences are required. Online guidance is also available for general advice on organising events including risk assessments, management plans and guidance for small and large scale events.
- 12.4 Operators should seek advice well in advance of events so they are aware of what authorisations and permissions are required and the time limits involved.

Single-use/non-recyclable plastic

- 12.5 Waste and recycling is a major concern for the people of Cornwall with single use plastics creating unnecessary waste with negative impacts on our communities. Cornwall Council encourages a culture that supports the environment by reducing waste and utilising reusable and recyclable products. Event organisers are therefore discouraged from using single-use/non-recyclable plastic at events.

Lantern and Balloon Release

- 12.6 Lanterns and balloons can create a number of environmental hazards. For that reason, Cornwall Council has a policy of prohibiting the release of lanterns and balloons on Council owned and controlled property. Although the release of lanterns and balloons is not a licensable activity, land owners and event organisers are discouraged from carrying out such activity at licensed events.

Planning/Building Control

- 12.7 The use of any licensed premises or places (including outside areas) are subject to planning controls. This may affect licensable activities held under an authorisation under the Act. There are several key differences between licensing and planning control.
- 12.8 The Planning, Building Control and Licensing processes are distinct and separate as are the imposition of any conditions resulting from determination of an application. Licensing applications will not be a re-run of a planning application. Internal and external alterations to licensed premises must have building regulation approval where such approval is required under the Building Acts, etc.

12.9 In cases where businesses have indicated that licensing and planning applications are being made simultaneously, the Licensing Service strongly recommends discussion with the Planning Service with the aim of agreeing mutually acceptable operating hours and scheme designs.

12.10 ~~It is strongly recommended that issues concerning planning permission and Building Control be resolved before a licence application is made.~~ Where issues concerning planning/building control have not been resolved before a licence application is made, the Planning Authority may make representations if such matters affect the promotion of licensing objectives and in particular where: -

- the activity to be authorised would amount to a contravention of the existing planning permissions and/or conditions imposed on planning permissions for the premises;
- the hours being sought exceed those authorised by any relevant planning permission.

12.11 Where a planning condition sets a terminal hour which is different to the licensing hours under an authorisation, the operator must comply with the earlier hour in order to avoid any breach of either planning or licensing law.

Strategies

12.12 Other local authority and government policies, strategies and responsibilities may also refer to the licensing function. The Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Some of these may not be directly related to the promotion of the licensing objectives; they can indirectly impact upon them. Examples of strategies would include:-

- National Alcohol Strategy
- Cornwall Alcohol Strategy
- Community Safety Strategy including Safer Cornwall
- Crime Prevention Strategies
- Local Transport Plan
- Tourism
- Equality
- Cultural
- Safeguarding
- Economic Strategy
- Planning Strategy
- Police and Crime Commissioner's Strategy (emerging strategy)
- Public Health / Health and Wellbeing Strategies

Every Customer Counts

- 12.13 The Licensing Authority are committed to making a real and positive difference to all its residents in terms of their experiences accessing work and business premises. Licensed premises, in particular, are places where many people choose to socialise and are therefore an important part of daily lives, however many of these premises are difficult for disabled people to access. The Licensing Service are sympathetic to the challenges which disabled people face every day in relation to physical access to licensed premises
- 12.14 In order to ensure compliance with the Equality Act 2010 and for the benefit of businesses and their disabled customers, the Licensing Authority actively supports Disability Cornwall in their 'Every Customer Counts' campaign. The Licensing Authority would encourage all businesses to sign up to the 'Every Customer Counts' initiative, which will provide tailored, practical, user friendly advice and information on access for disabled people.

Partnership Working

- 12.15 In accordance with Statutory Guidance, the Licensing Authority will look to the police as the main source of advice on crime and disorder but will also seek to involve the Local Community Safety Partnership.
- 12.16 The Licensing Authority will co-operate with the Security Industry Authority (SIA) and consider adding relevant conditions to authorisations where appropriate.
- 12.17 Regular meetings will be held between the Licensing Authority and Responsible Authorities and appropriate internal services within the Council in order to address issues that arise in relation to the provision of licensable activities in a co-ordinated approach.
- 12.18 The Licensing Authority encourages Pubwatch schemes and similar trade groups and will actively support such schemes and endeavour to attend meetings. The Licensing Authority will have regard to operators' involvement with and support for Pubwatch and other schemes such as 'Best Bar None', which have an interest in improving standards and promoting the licensing objectives.
- 12.19 The Licensing Authority will work closely with trade organisations (eg Pubwatches, Federation of Licensed Victuallers, British Institute of Inn-keeping, Federation of Small Businesses, Chambers of Commerce, Business Improvement Districts) and similar groups to identify and encourage best practice.
- 12.20 An example of best practice is where operators require bar crawl companies and organisations to comply with the Bar Crawl Code of Conduct before allowing such companies to access their premises. Failure of operators to enforce the Code with the bar crawl organisers may result in their Premises Licence being reviewed.
- 12.21 The Licensing Authority will endeavour to work with other authorities and government departments to assess and utilise best practice to ensure a

consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities throughout Cornwall.

12.22 The Licensing Authority will support the development of Purple Flag accreditation for key evening and night time economy areas within Cornwall.

POLICY 12

The Licensing Authority shall ensure proper integration of this policy with local crime prevention, planning, transport, tourism and cultural strategies by: -

- **Liaising and consulting with the members of the Crime and Disorder Reduction Partnership, Planning Committees and the Community Safety Partnership.**
- **Liaising and consulting with the Safety Advisory Groups.**
- **Liaising and consulting with the Planning Authority and the Highways Authority.**
- **Participation in partnership initiatives aimed at addressing issues around the evening and night-time economy.**
- **Participation and support in multi-agency exercises including during performance inspections and test purchasing.**

REASONS – *it is important that different policies / strategies support each other together with the Licensing Authority's vision rather than creating unnecessary conflict and confusion.*

13. Other Legislation *

Whilst licence conditions should not duplicate other statutory provisions, licensing authorities and operators should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes:

- Gambling Act 2005
- Environmental Protection Act 1990
- Noise Act 1996
- Clean Neighbourhoods and Environmental Act 2005
- Regulatory Reform (Fire Safety) Order 2005
- Health and Safety (First-Aid) Regulations 1981
- Health and Safety at Work Act 1974
- Public Health Act 2006
- Health Act 2006
- Equality Act 2010
- Criminal Justice and Police Act 2001
- Anti-Social Behaviour Act 2003
- Violent Crime Reduction Act 2006

- Crime and Disorder Act 1998
- European Convention on Human Rights; Human Rights Act 1998
- European Union Services Directive
- Sustainable Communities Act 2007
- Race Relations Act 1976
- Policing and Crime Act 2009
- Police Reform and Social Responsibility Act 2011
- Safety at Sports Grounds Act 1975
- Sunday Trading Act 2004
- Christmas Day (Trading) Act 2004
- Live Music Act 2012
- Legislative Reform (Entertainment Licensing) Order 2014
- Anti-social Behaviour, Crime & Policing Act 2014
- Regulators' Code under the Legislative and Regulatory Reform Act 2006
- Deregulation Act 2015
- Immigration Act 2016
- Policing and Crime Act 2017
- GDPR / Data Protection Act 2018
- Other legislative requirements, e.g. Phonographic Performance Licence (PPL), Performing Rights Society (PRS), Copyright, etc.

14. Consultation and Engagement

Consultation took place between ~~21 October 2013 and 3 January 2014~~
12 September and 5 December 2018.

Below is a non-exhaustive list of persons/organisations consulted with:-

[list to be updated during course of consultation]

- Chief Officer of Police
- British Transport Police
- Police and Crime Commissioner
- Cornwall Licensing Strategy Group
- Crime and Disorder Reduction Partnership
- Public Health Cornwall / Public Health England
- Royal Cornwall Hospital A&E Dept and local Hospitals
- Maritime and Coastguard Agency
- Event Cornwall
- Tourism / Visit Cornwall
- Fire and Rescue Service (CC)
- Local Safeguarding Children Board (CC)
- Trading Standards (CC)
- Environmental Protection (CC)
- Health and Safety (CC)
- Licensing Compliance Team (CC)
- Local Planning Authority (CC)
- Leisure and Culture (CC)
- Transportation and Streets (CC)
- Community Safety (CC)
- Adult Care and Support (CC)
- Childrens, Schools and Families (CC)
- Legal Services (CC)

- Premises Licence / Club Premises Certificate Holders
- Personal Licence Holders
- Pubwatch Groups
- Newquay Association of Licensed Premises
- Federation of Licensed Victuallers Association
- British Institute of Innkeeping
- British Beer and Pub Association
- Chambers of Commerce
- Business Improvement Districts
- Town Centre Management Specialists
- Federation of Small Businesses
- Licensing Consultants/Solicitors
- Cornwall Council Members
- Parish and Town Councils
- Local MPs
- Residents Associations
- Newquay Safe
- Devon & Cornwall Community Watch Association
- Community Watch Schemes
- Disability Cornwall

15. Further Information *

The Council's latest licensing information can be found at www.cornwall.gov.uk/default.aspx?page=467

The Licensing Act 2003 can be found at www.legislation.gov.uk/ukpga/2003/17/contents

Statutory Guidance issued under Section 182 of the Licensing Act 2003 can be found at www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance

The Government's Alcohol Strategy can be found at www.gov.uk

Safer Cornwall information can be found at www.safercornwall.co.uk

Fire safety information can be found at www.gov.uk/government/collections/fire-safety-law-and-guidance-documents-for-business

Information relating to registration and training of door staff can be found at the Security Industry Authority at www.the-sia.org

British Institute of Innkeeping, which is the awarding body for appropriate qualifications, can be found at www.bii.org

Department of Culture Media and Sport website www.gov.uk/government/organisations/department-for-culture-media-sport

~~Information on Cornwall's Best Bar None Scheme can be found at www.cornwallbestbarnone.co.uk~~

~~Information on BRDO can be found at www.gov.uk/government/organisation/better-regulation-delivery-office~~

There is a comprehensive range of **Business Regulatory Support Services** available to help and advise businesses to be more successful and compliant – more information available at <https://www.businessregulatorysupport.co.uk/>

For help with any licensing application, take advantage of our **Licensing Direct** services where we will assist you with your application from start to finish.

To view the latest register of licenses premises under the Licensing Act 2003, click [here](#)

Information on Better Business for All can be found at <https://www.cornwall.gov.uk/community-and-living/communities-and-devolution/devolution/devolution-to-cornwall/business-support/>

For more information on Business regulatory support - CIOG Growth Hub <https://www.ciosgrowthhub.com/business-regulatory-support/>

Most UK legislation can be found at www.legislation.gov.uk

For information on organising events in Cornwall www.cornwall.gov.uk/events

Guidance for licensed premises calculating occupancy figures <http://www.cornwall.gov.uk/default.aspx?page=36216>

~~The Regulators' Code came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006, replacing the Regulators' Compliance Code; details can be found at following link:-~~

For more information on the Regulators' Code: <https://www.gov.uk/government/publications/regulators-code>

GDPR - please refer to our [privacy notice](#) under the General Data Protection Regulation – available on the Council's licensing web-page or from the Licensing Team on request.

Other useful websites:-

Federation of Small Businesses www.fsb.org.uk

National Pubwatch Scheme www.nationalpubwatch.org.uk

Chambers of Commerce www.britishchambers.org.uk

Federation of Licensed Victuallers Associations www.flva.co.uk

www.GOV.uk

www.homeoffice.gov.uk

www.instituteoflicensing.org

www.bbnuk.com

* The 'Other Legislation' and 'Further Information' sections will be kept under review and updated accordingly

Prepared by

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If you would like this Policy in another format please contact:

**Cornwall Council
County Hall
Treyew Road
Truro TR1 3AY**

Telephone: **0300 1234 100**

Email: **enquiries@cornwall.gov.uk**

www.cornwall.gov.uk

Please consider the environment. Only print this document if it cannot be sent electronically.

Telephone 0300 1234 212 or email **licensing@cornwall.gov.uk**

Appendix A - Map of Cornwall



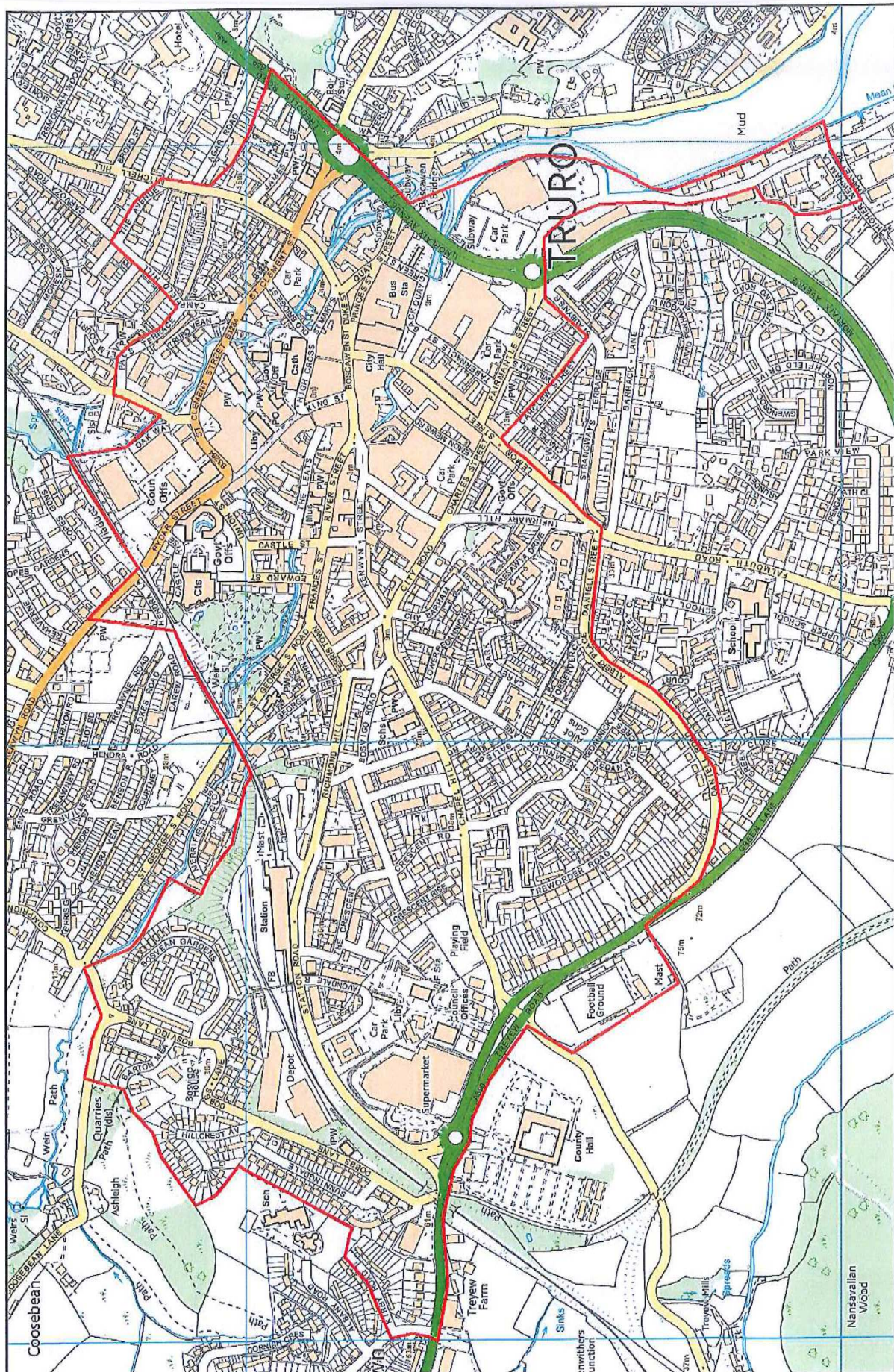
Appendix B – Plan of Cumulative Impact Area - NEWQUAY



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Produced by the Force Mapping Unit - Contact: X22889 (01392 452889)

Appendix C – Plan of Cumulative Impact Area - TRURO



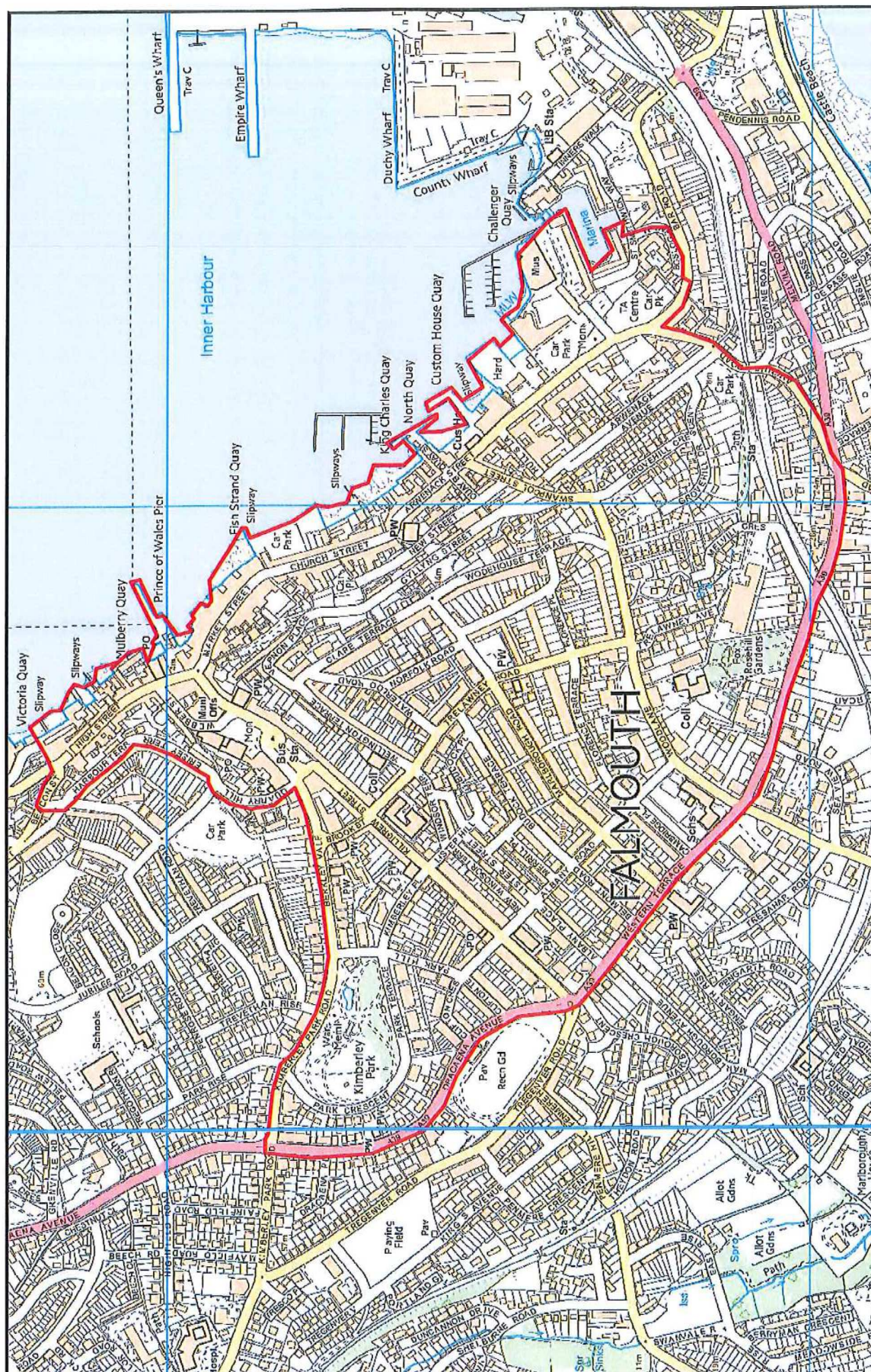
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Appendix D – Plan of Cumulative Impact Area - PENZANCE



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Appendix E – Plan of Cumulative Impact Area - FALMOUTH



<p>Devon & Cornwall Police building safer communities together</p>	
<p>0.2 Kilometres</p>	
<p>N W E S</p>	
<p>Scale @ A4: 1:7,884 Rev: Drawn By: Rob Date: 14/10/2013 Datum: OSGB36</p>	
<p>MAP TITLE: Falmouth Boundary</p>	<p>MAP PATH: T:\ESRI Maps\Falmouth_Boundary\FalmouthBoundary.mxd</p>
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Appendix F

Definitions	
The Act	The Licensing Act 2003
Statutory Guidance	The Statutory Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003
Licensing Authority	For the purpose of this document, the 'Licensing Authority' is Cornwall Council. The administrative processing is carried out by the Public Health and Protection service through its Licensing Team
Operating Schedule	Prescribed information which forms part of premises licence application to include description of premises, details of licensable activities, hours of operation, period of licence, steps to promote licensing objectives
Licensable activities	a) the sale by retail of alcohol b) the supply of alcohol by or on behalf of a club to, or to the order of a member of the club c) the provision of regulated entertainment d) the provision of late night refreshment
Qualifying club activities	a) the supply of alcohol by or on behalf of a club to, or to the order of a member of the club b) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place; and c) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests
Operator	Includes all Premises Licence holders, Club Premises Certificate holders, Designated Premises Supervisors and individuals who have given a Temporary Event Notice. This in some circumstances could also include the owner of the business and certain members of staff.
Responsible Authorities	Authorities designated under the Act or prescribed in regulations (listed in Appendix J). Responsible Authorities are served with copies of applications and may make representations against an application or request review of an existing licence based on the likely or actual adverse impact on the licensing objectives.
Other Persons	Includes any individual, body or business who may make representations on applications for grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may seek a review of a premises licence.
Licensing Objectives	Set by the Licensing Act 2003 the licensing objectives are: - a) the prevention of crime & disorder; b) public safety; c) the prevention of public nuisance; and d) the protection of children from harm.
Community Premises	Defined as premises that are or form part of a church hall, chapel hall or other similar building; or a village hall, parish hall or community hall or other similar building, provided they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include purposes beneficial to the community as a whole.

Appendix G – SCHEDULE OF DELEGATED AUTHORITY

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	All other cases
Application for personal licence with relevant or foreign offences		If a police objection	All other cases
Application for Premises Licence/Club Premises Certificate		If a relevant representation	All other cases
Give notice to dispense with a hearing where all parties consider a hearing is unnecessary and the relevant licensing Sub-Committee have confirmed in writing their agreement that a hearing is unnecessary			All cases
Application for provisional statement		If a relevant representation	All other cases
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation	All other cases
Application for minor variation of Premises Licence/Club Premises Certificate			All cases
Application to disapply mandatory condition requiring designated premises supervisor in respect of a Premises Licence		If a police objection	All cases
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	

Matter to be dealt with	Full Committee	Sub Committee	Officers
Decision on whether a representation is irrelevant frivolous vexatious or repetitive			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a Temporary Event Notice		All cases	
Withdrawal of Club Registration Certificate where Licensing Authority is satisfied that the club is no longer a qualifying club			All cases
Decision to reject an application for review			All cases
Decision to extend time limits for hearings where it is considered to be in the public interest to do so			All cases
Decision to adjourn hearings where it is considered to be in the public interest to do so		All cases	
Suspension of Premises Licence or Club Premises Certificate when annual fee not paid			All cases
Making representations on applications as Licensing Authority			All cases
Making application for Review as Licensing Authority			All cases

Appendix H - PROCEDURES FOR THE CONDUCT OF HEARINGS

PROCEDURE FOR THE CONDUCT OF LICENSING ACT SUB-COMMITTEE HEARINGS – PERSONAL LICENCE APPLICATION

1. Election of Chairman.
2. Chairman opens hearing and introduces the Members of the Sub-Committee and the Officers (and their roles) to all parties.
3. Chairman will invite the parties present to introduce themselves.
4. Chairman will explain the procedure to be followed to the parties including those who are entitled to speak and ensure they understand it.
5. The Licensing Service will outline the matter.
6. Members to ask questions of Licensing Service, if any.
7. The applicant (or their representative) will present their application and call any witnesses.
8. Members to ask questions of applicant, their representative and any witnesses.
9. Representations from the Police in relation to the application.
10. Members to ask questions of the Police, if any.
11. Chairman and Members to ask any further questions of all parties.
12. Final Submission from applicant. Applicant has final right of reply.
13. The Sub-Committee may then seek clarification on any points raised in the final submission.
14. The Sub-Committee will then retire to obtain legal advice (see note i). The Legal Officer and Democratic Services Officer will retire with them.
15. The Sub-Committee will, unless an adjournment or deferral is necessary, return and the Decision will be read out.

Note i - Paragraph 5 of Part 1 of Schedule 12A Local Government Act 1972, as amended.

PROCEDURE FOR THE CONDUCT OF LICENSING ACT SUB-COMMITTEE HEARINGS – PERSONAL LICENCE REVIEW

1. Election of Chairman.
2. Chairman opens hearing and introduces the Members of the Sub-Committee and the Officers (and their roles) to all parties.
3. Chairman will invite the parties present to introduce themselves.
4. Chairman will explain the procedure to be followed to the parties including those who are entitled to speak and ensure they understand it.
5. The Licensing Service will outline the matter.
6. Members to ask questions of Licensing Service, if any.
7. Representations from the Police in relation to the review.
8. Members to ask questions of Police, if any.
9. Representations from the licence holder.
10. Members to ask questions of licence holder, if any.
11. Chairman and Members to ask any further questions of all parties.
12. Final Submission from licence holder. Licence holder has final right of reply.
13. The Sub-Committee may then seek clarification on any points raised in the final submission.
14. The Sub-Committee will then retire to obtain legal advice (see note i). The Legal Officer and Democratic Services Officer will retire with them.
15. The Sub-Committee will, unless an adjournment or deferral is necessary, return and the decision will be read out.

Note i - Paragraph 5 of Part 1 of Schedule 12A Local Government Act 1972, as amended.

PROCEDURE FOR THE CONDUCT OF LICENSING SUB-COMMITTEE HEARINGS – PREMISES APPLICATIONS

1. Election of Chairman.
2. Chairman opens hearing and introduces the Members of the Sub-Committee and the Officers (and their roles) to all parties.
3. Chairman will invite the parties present to introduce themselves.
4. Chairman will explain the procedure to be followed to the parties including those who are entitled to speak and ensure they understand it.
5. The Licensing Service will outline the matter. At this stage Licensing will mention any conditions which have been suggested and/or agreed.
6. Members to ask questions of Licensing Service, if any.
7. The Committee will consider any request made by a party (under regulation 8 (2) for permission for another person to appear at the hearing (see note i).
8. The Applicant (or their representative) will present their application and call any witnesses.
9. Members to ask questions of the Applicant, their representative, or witnesses, if any.
10. Representations from the Responsible Authorities from within the Council in relation to the application.
11. Members to ask questions of the Responsible Authorities from within the Council, if any.
12. Representations from external Responsible Authorities in relation to the application.
13. Members to ask questions of the external Responsible Authorities, if any.
14. Representations from Other Persons (or their representative) in relation to the application.
15. Members to ask questions of the Other Persons, if any.
16. Chairman and Members to ask any further questions of all Parties.
17. Final Submission from Applicant. Applicant has final right of reply.

18. The Sub-Committee may then seek clarification on any points raised in the final submission.
19. The Sub-Committee will then retire to obtain legal advice (see note ii). The Legal Officer and Democratic Services Officer will retire with them.
20. The Sub-Committee will, unless an adjournment or deferral is necessary, return and the Decision will be read out.

NOTES:

- Note i Regulation 8 (2) refers to cases where due notice has been given that a party wishes any other person (other than the person he/she intends to represent him/her at the hearing) to appear at the hearing.
- Note ii Paragraph 5 of Part 1 of Schedule 12A Local Government Act 1972, as amended.

PROCEDURE FOR THE CONDUCT OF LICENSING ACT SUB-COMMITTEE – PREMISES REVIEW HEARINGS

1. Election of Chairman.
2. Chairman opens hearing and introduces the Members of the Sub-Committee and the Officers (and their roles) to all parties.
3. Chairman will invite the parties present to introduce themselves.
4. Chairman will explain the procedure to be followed to the parties, including those who are entitled to speak and ensure they understand it.
5. The Licensing Service will outline the matter. At this stage the Licensing Officer will mention any conditions that have been suggested and/or agreed.
6. Members to ask questions of the Licensing Officer, if any.
7. The Committee will consider any request made by a party (under regulation 8 (2)) for permission for another person to appear at the hearing (see note i).
8. Representations from external authority and/or responsible authority from within the Council and/or other persons in relation to the review application.
9. Members to ask questions of the external authority, Council responsible authority or other persons, if any.
10. The Respondent (or their representative) will present their case and call any witnesses.
11. Members to ask questions of the respondent, or their representative, if any.
12. Chairman will ask if any of the responsible Authorities or other persons have anything to add.
13. Chairman and Members to ask questions of all parties.
14. Final Submission from respondent. Respondent has final right of reply.
15. The Sub-Committee may then seek clarification on any points raised in the final submission.
16. The Sub-Committee will then retire to obtain legal advice (see note ii). The Legal Officer and Democratic Services Officer will retire with them.

17. The Sub-Committee will, unless an adjournment or deferral is necessary, return and the decision will be read out.

NOTES:

- Note i Regulation 8 (2) refers to cases where due notice has been given that a party wishes any other person (other than the person he/she intends to represent him/her at the hearing) to appear at the hearing.
- Note ii Paragraph 5 of Part 1 of Schedule 12A Local Government Act 1972, as amended.

**PROCEDURE FOR THE CONDUCT OF LICENSING ACT
SUB-COMMITTEE - TEMPORARY EVENT NOTICE (TEN)
HEARINGS WHERE POLICE AND/OR ENVIRONMENTAL HEALTH
OBJECTION RECEIVED**

1. Election of Chairman.
2. Chairman opens hearing and introduces the Members of the Sub-Committee and the Officers (and their roles) to all parties.
3. Chairman will invite the parties present to introduce themselves.
4. Chairman will explain the procedure to be followed to the parties, including those who are entitled to speak and ensure they understand it.
5. The Licensing Service will outline the matter.
6. Members to ask questions of the Licensing Service, if any.
7. The Committee will consider any request made by a party (under regulation 8 (2)) for permission for another person to appear at the hearing
(see note i)
8. The Applicant (or their representative) will present their application and call any witnesses.
9. Members to ask questions of Applicant, or their representative, if any.
10. Representations from the Police and/or Environmental Health in relation to the application.
11. Members to ask questions of the Police and/or Environmental Health, if any.
12. Chairman and Members to ask any further questions of all Parties.
13. Final submission from Applicant. Applicant has final right of reply.
14. The Sub-Committee may then seek clarification on any points raised in the final submission.
15. The Sub-Committee will then retire to obtain legal advice (see note ii). The Legal Officer and Democratic Services Officer will retire with them.
16. The Sub-Committee will, unless an adjournment or deferral is necessary, return and the decision will be read out.

NOTES:

- Note i Regulation 8 (2) refers to cases where due notice has been given that a party wishes any other person (other than the person

he/she intends to represent him/her at the hearing) to appear at the hearing.

Note ii Paragraph 5 of Part 1 of Schedule 12A Local Government Act 1972, as amended.

Appendix I

Examples of measures when compiling operating schedules - these are intended as a guide only and are not an exhaustive list of measures:-

[It is the intention of the Licensing Service to liaise with all responsible authorities and update these measures as part of the policy review. This appendix will therefore be updated with the agreement of the relevant responsible authorities and brought back to the Licensing Act Committee in due course.]

Maintenance of a documented training and induction policy for staff

- *This should ensure that staff are appropriately trained in relation to the legal and social responsibilities associated with the sale / supply of alcohol.*
- *This could assist in any due diligence defence in the case of any prosecution for an offence under the Act, or determination of an application for review where consideration may otherwise be given to removing the DPS from the Premises Licence.*
- *Lack of training records will be considered indicative of a lack of training unless the Premises Licence holder / designated premises supervisor can provide other evidence that appropriate training has been given.*
- *Operators should ensure that all staff working at the premises are given appropriate training in relation to the requirements of the Act, and other relevant legislation, together with the conditions and restrictions of the licence or the terms of a notice under which licensable activities are being held. It is important that such training is recorded and records maintained to show that the operator has taken reasonable steps to ensure that staff are aware of the requirements.*

Provision of signage, alcohol free and low alcohol beverages, use of posters and other methods to inform customers of the alcohol unit per drink served.

- *These and similar measures would serve to promote responsible behaviour associated with the consumption of alcohol.*

Policy of preventing customers leaving licensed premises with bottles / glasses. Use of alternatives to glass drinking vessels. Provision of secure containment (e.g. one way receptacles) of empty bottles, and prompt clearing of empty glasses throughout operating times

- *The Licensing Authority supports the use of alternatives to glass, and would encourage applicants to consider the use of toughened*

glass or polycarbonate, which minimises the risk of injury to persons on the premises. Where, on determining a request for review of a Premises Licence, the Licensing Authority is satisfied that there is a high risk of injury whether due to the nature of the event or evidence in relation to accidents / incidents involving glass at the premises, consideration will be given to imposing conditions requiring the use of alternatives to glass and bottles.

- *This may be particularly important in relation to outdoor events, or during key periods such as New Years Eve and local carnival weeks.*
- *This approach would enable customers to take drinks outside without undermining the crime & disorder or public safety objectives.*
- *There may be other factors such as special risk entertainment (for example foam parties) where the use of alternatives to glass is considered particularly necessary in the interests of public safety.*
- *Certain premises types such as mobile refreshment premises, late night alcohol-led entertainment venues, may present higher risks which would be minimised by this measure.*

Use of CCTV both inside and outside the premises in appropriate locations (including all external doorways)

- *Applicants must be aware of the provisions of the Data Protection Act 1998, and its requirements in relation to the use of CCTV.*
- *Provision of CCTV is particularly relevant in premises operating after 12 midnight where alcohol and entertainment are the primary purpose of the premises/ part of the premises.*
- *Extension of CCTV coverage to include bars and dance floors with appropriate signage may be appropriate.*
- *Use of CCTV may also be desirable for personal security reasons at small premises / mobile outlets.*
- *Consideration should be given to lighting (internal & external) to ensure that sufficient lighting is provided to ensure that the CCTV coverage is not undermined.*
- *In premises where CCTV is a requirement of the licence conditions, any CCTV installed should be fit for purpose as follows:*
 - *Images should be of a suitable standard and clarity.*
 - *Day date and time should be accurate*
 - *A member of staff should be available with knowledge on the operation of the system and how to download images.*
 - *A retention period of at least 14 days should apply.*
- *Compliance with the following:*
 - *The Data Protection Act 1998.*
 - *The Regulation of Investigatory Powers Act 2000.*
 - *The code of practice issued by the Secretary of State under Section 30 of the Protection of Freedoms Act 2012.*
 - *The Information Commissioners CCTV Codes of Practice.*

Contributions to revenue costs for town centre CCTV systems

- *Town Centre schemes are particularly beneficial in supporting the night time economy and in relevant areas are a valuable support to pub watch schemes and similar where premises are in contact*

with each other in order to communicate actual and potential problems.

Maintenance of documented Entry & Exit Policies

- *Pro-active queue management, including consideration of effective management of group admissions (e.g. stag / hen parties).*
- *Time limits on new admissions to the premises may be beneficial in some circumstances.*
- *Adoption of a policy of refusing admission to persons who are drunk and / or disorderly or are identified as 'excluded' under Pubwatch or similar schemes.*
- *Policies to encourage effective dispersal from premises on closure, having regard to the impact of such dispersal on the wider community.*
- *Searching – this is particularly important for late night alcohol-led venues and should focus on preventing alcohol, drugs or weapons from entering the premises.*
- *Customers not being permitted to leave licensed premises with open containers of alcohol, particularly where the premises abuts a designated public place under the Criminal Justice and Police Act 2001 (Alcohol Restriction Zones).*
- *Both male and female staff will be required to facilitate effective searching of any person (males searching males and females searching females).*

Maintenance of documented Drugs Policies

- *This could include initiatives such as the robust and proper use of 'Drugs Boxes' in partnership with the police. Operators are legally obliged to take reasonable steps to prevent the premises being used in connection with the sale, supply or use of illegal drugs.*

Drug testing / policy at festivals / events

- *Co-operate and work with Devon and Cornwall Police' Drug and Alcohol Harm Reduction Team with regard to drug testing at large events/festivals, e.g. having a behind the scenes drug testing facility to test drugs which are seized or placed in amnesty bins in order to identify whether there are any potentially dangerous substances located and if so, communicate to attendees to warn them.*

Proof of Age Policy

- *It is a mandatory condition that operators must ensure that an Age Verification Policy applies to premises which sell alcohol and operators are encouraged to adopt robust entry policy requiring proof of age as a condition of entry (Challenge 25 is recommended) – this is particularly important where it is intended to retail alcohol or to provide regulated entertainment of an adult nature (eg films rated '18' etc or sexual or other adult entertainment). It is an accepted fact that young people are well practised at trying to*

appear older in order to gain entry or access to age-restricted events or products. It is good practice to require all persons appearing under the age of 25 to show proof of age prior to entering the premises. This type of policy should be included on websites and in other advertisements. Operators should be aware of the various proof of age schemes and are advised to insist on identification that cannot be easily forged (i.e. with a PASS hologram etc.) Information and advice on currently approved sources of ID can be obtained from the Licensing Authority and / or police.

- *The Licensing Authority encourages the display of appropriate signage and posters for Challenge 25 to discourage underage drinking and promote the protection of children from harm and crime and disorder licensing objectives.*
- *Adequate training of staff to ensure compliance with the law in relation to consumption of alcohol by persons under 18 years, including prevention of adults buying alcohol for children.*

Maintenance of documented Special Risk Management

- *Operators should maintain full risk assessments appropriate for proposed premises operation, together with individual risk assessments for entertainment / events involving special risks such as foam parties, pyrotechnics etc*
- *Different areas of the premises may also pose different risks (e.g. kitchens, bars, dance floors etc.) and should be considered separately when conducting risk assessments.*

Employment of sufficient registered security staff

- *Appropriate numbers of staff should be identified and evidenced through risk assessments that take into account the layout of the premises as well as the nature of entertainment, capacity, etc.*
- *Security Staff should be easily identifiable but consideration should be given to ensuring that their dress code is not seen as intimidating*

Maintenance of a log recording incidents at or near the premises

- *Incidents may include violence, disorder, ejection and banning of persons, etc*

Active participation in local crime prevention schemes

- *This would include Pubwatch or similar schemes.*
- *Such schemes should include two way communication between the police and staff to allow reporting of incidents and warnings about potential trouble makers, shared exclusion policies, etc.*
- *Active membership of Pubwatch schemes or similar schemes will significantly enhance the effectiveness of exclusion policies and other initiatives.*

Documented policies to control public nuisance

- *Litter is a public nuisance and measures to prevent the operation of the premises having a degrading effect on public places (e.g. through the use of advertising literature by way of flyers / fly posting) should be addressed. Consideration to branded packaging of refreshments from take away premises.*
- *For information - there are separate controls in relation to handing out flyers in Newquay. This means distributing free printed material in certain areas of Newquay will require separate authorisation from the Licensing Authority.*
- *Use of noise assessments to identify measures required to prevent nuisance – this will be particularly relevant in relation to premises operating after 11.00 p.m. or events held in the open air or in temporary structures (marquees, etc.).*
- *Policy to ensure that doors and windows kept closed while entertainment is taking place or at other times when the premises are busy.*
- *Use of air conditioning systems to compensate for closure of windows and doors in the summer season or otherwise when necessary for the comfort of customers within the premises.*
- *Control of sources of noise (e.g. noise from plant, air conditioning systems, refrigeration units).*
- *Effective queue management by registered security staff including prevention of persons lingering on the forecourt areas of the premises after closing time.*
- *Measures to be taken to ensure customers leave quietly and minimise disturbance to residents in the area, e.g. signage / requests from security staff, DJ announcements etc.*
- *Winding down periods with reduced levels of music and /or more soothing music, stopping the sale of alcohol, changing lighting levels within the premises and promoting the sale of food and non-alcoholic beverages. Provision of dedicated taxi service point within the premises to enable booking transport home.*
- *Outside patrolling by security staff (within boundaries of the premises) where appropriate.*
- *Zero tolerance policy towards persons who are persistently rowdy when leaving the premises (may be considered in conjunction with other premises to increase penalty to barring from multiple premises).*
- *Consideration of adequate parking provision within the locality.*
- *Provision / sponsorship of external litterbins may be particularly appropriate in relation to late night takeaway food premises.*
- *Consideration of availability of public transport (including taxis and private hire vehicles) for customers. Consideration given to regular bus service being provided with appropriate pick up points in partnership with other licensed premises, holiday accommodation outlets, etc.*
- *Prevention of disturbance to local residents from the noise of vehicular traffic related to the premises (particularly waiting buses / taxis etc.).*
- *Prevention of light pollution, which may cause nuisance to local residents.*

- *Depositing of waste glass into receptacles undertaken at times that will cause minimum disturbance to residents.*
- *Measures to prevent noxious smells from venting causing a nuisance to residential properties.*
- *Regulation of engine or generator noise from mobile outlets in residential area*
- *Containment of the seepage of liquids or spillage of solid waste from refuse containers, etc.*

Maintenance of documented Emergency Procedures

- *Should include procedures for dealing with fire, evacuation, engaging the emergency services, First Aid, etc.*
- *Provision of adequate and appropriate first aid equipment and materials on the premises together with sufficient trained first aiders.*
- *Consideration should also be given to adequate provision of access for emergency vehicles kept free of obstruction.*
- *Provision of adequate staff trained in evacuation procedures at all times whilst the premises are in use.*
- *Arrangements to provide care and assistance to persons who are injured or ill (including extreme drunkenness). Such arrangements should include contacting families or friends, and provision of a quiet 'recovery' area for persons while waiting for medical assistance.*

Calculation and documentation of maximum occupancy limits

- *Including where appropriate, occupancy limits for different areas within the premises. Details of how it is proposed to monitor the number of persons present should be recorded to ensure that the maximum occupancy for the premises is not exceeded should also be included.*
- *The identification of maximum occupancy levels appropriate for the premises (including specific area limits within the premises) should be identified via the fire risk assessment (which all licensed premises must have) and the crime and disorder risk assessment. Risk assessments should address the issue of occupancy levels in relation to the implications for crime and disorder as well as public safety.*
- *For information – with regard to fire safety requirements, by virtue of the powers given under the Regulatory Reform (Fire Safety) Order 2005, the Fire Authority reserves the right to determine / confirm the maximum occupancy levels for the premises.*
- *Calculation of occupancy figures should have regard to the layout and proposed use of each licensed area. For example, an area with tables and chairs would have a lower occupancy level than an open area. It is possible that an area will have different occupancy limits for different layouts depending on the proposed usage and the accompanying risk assessments.*
- *External areas will have different considerations and a maximum occupancy figure may still be necessary in the interests of public safety.*

- *Operating schedules should be compiled having regard to Fire Safety Risk Assessments; guidance available at the following link: <https://www.gov.uk/government/collections/fire-safety-law-and-guidance-documents-for-business>*

Maintenance of Safety Policies

- *Adequate electrical safety checks to be undertaken within the premises on a regular basis by a competent person and evidenced by certification to National Inspection Council for Electrical Installation Contracting (NICEIC) standards. Such certification to be made available for inspection at any reasonable time by an authorised officer of the Licensing Authority.*
- *Adequate gas safety checks to be undertaken on a regular basis by a gas engineer on the Gas Safe Register. Certificate kept available for inspection at any reasonable time by an authorised officer of the Licensing Authority.*

Children and licensed premises

- *Provision of sufficient numbers of staff to control access and egress (including safe transport home) and to ensure the safety of children.*
- *During performances aimed at children, provision of adequate numbers of attendants (numbers identified through risk assessments) in the area(s) occupied by the children and in the vicinity of each exit. Suggested minimum ratio - 1 attendant: 50 children.*
- *Provision of sufficient and safe accommodation for any children involved in performances with adequate male and female supervision (numbers identified through risk assessments) at all times.*
- *Anyone intending to provide staff for the supervision of activities to children (or vulnerable adults) should consider carrying out enhanced criminal record check and / or Independent Safeguarding Authority (ISA) checks on individuals. Such checks should be kept up to date, recorded and retained for the duration of employment.*
- *limitations on the hours when children may be present;*
- *limitations on the presence of children under certain ages when particular specified activities are taking place;*
- *limitations on the parts of the premises to which children may have access;*
- *limitations or exclusions when certain activities are taking place;*
- *requirements that children must be accompanied by an adult*
- *full exclusion of children from the premises when any licensable activities are taking place.*

Appendix J

RESPONSIBLE AUTHORITIES

Applications, accompanying documents and appropriate fee should be sent to the relevant Licensing Authority who are also a Responsible Authority under the Act and copies sent to the following Responsible Authorities * (unless application has been made electronically via www.GOV.UK)

Responsible Authority	Address	Telephone/Fax/Email
Local Safeguarding Children Board	Children, Schools & Families (FAO Andy Jory) 3rd Floor, North Wing New County Hall Treyew Road Truro TR1 3AY	tel. 01872 323926 ajory@cornwall.gov.uk [email address to be updated]
Trading Standards	Trading Standards Cornwall Council Unit 6 Threemilestone Industrial Estate TRURO TR4 9LD	tel. 0300 1224 191 tradingstandards@cornwall.gov.uk
Police	Licensing Department Devon & Cornwall Constabulary Launceston Police Station Moorland Road LAUNCESTON PL15 7HY	tel. 01566 770500 fax 01566 771388 licensing.team@devonandcornwall.pnn.police.uk
Fire & Rescue Service	Cornwall Fire & Rescue Service Central Division Headquarters St Austell Fire Station Carlyon Road ST AUSTELL PL25 4LD	tel. 01726 72582 fax 01726 67093 csadmin@fire.cornwall.gov.uk
Health & Safety	Health & Safety Cornwall Council Unit 6 Threemilestone Industrial Estate TRURO TR4 9LD	tel. 01872 324388 businesscompliance@cornwall.gov.uk
Environmental Protection	Environmental Health Cornwall Council Dolcoath Avenue CAMBORNE TR14 8SX	tel. 01209 616990 communityandenvironmentalprotection@cornwall.gov.uk

Local Planning Authority	Planning Service Cornwall Council Chy Tревail Beacon Technology Park Bodmin PL31 2FR	tel. 01208 265712 planning.enforcement@cornwall.gov.uk
Public Health	Jez Bayes Alcohol Strategy Lead CIOS DAAT, Helford House May Court Truro Business Park Threemilestone TRURO TR4 9LD	tel. 01726 223400 jbayes@cornwall.gov.uk [email address to be updated]
Secretary of State Home Office (Immigration Enforcement)	Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY	alcohol@homeoffice.gsi.gov.uk
Additional Responsible Authorities for vessels		
Maritime and Coastguard Agency	MCA Falmouth Pendennis Point Castle Drive FALOUTH TR11 4WZ	tel. 01326 310800
* Responsible Authorities are subject to Regulations and may change. In addition Responsible Authorities' details may change and the above will be updated accordingly.		