

HAVANT BOROUGH COUNCIL  
PUBLIC SERVICE PLAZA  
CIVIC CENTRE ROAD  
HAVANT  
HAMPSHIRE P09 2AX

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## LICENSING COMMITTEE AGENDA

**Membership:** Councillor Smith D (Chairman)

Councillors Mrs Blackett, Bowerman, Cresswell, Fairhurst, Hart, Howard, Hughes (Vice-Chairman), Keast, Kerrin, Pike, Sceal, Shimbart, Thomas and Wade

**Meeting:** Licensing Committee

**Date:** Wednesday 15 June 2016

**Time:** 5.00 pm

**Venue:** Hollybank Room, Public Service Plaza, Civic Centre Road,  
Havant, Hants PO9 2AX

The business to be transacted is set out below:

Nick Leach  
Monitoring Officer

7 June 2016

Contact Officer: Mark Gregory (023) 9244 6232  
Email: [mark.gregory@havant.gov.uk](mailto:mark.gregory@havant.gov.uk)

### PART 1 (Items open for public attendance)

**1 Apologies**

To receive apologies for absence.

**2 Minutes**

To approve the minutes of the Licensing Committees held on 23 March 2016 and 11 May 2016.

**3 Matters Arising**

**4 Declarations of Interests**

Page

1 - 6

To receive and record any declarations of interests from members present in respect of any of the various matters on the agenda for this meeting.

**5 Chairman's Report**

**6 Proposed Changes to the Current Licensing Act 2003 Policy 7 - 46**

**PART 2 ( Confidential Items)**

NONE

## **GENERAL INFORMATION**

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### **Internet**

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# Havant

## BOROUGH COUNCIL

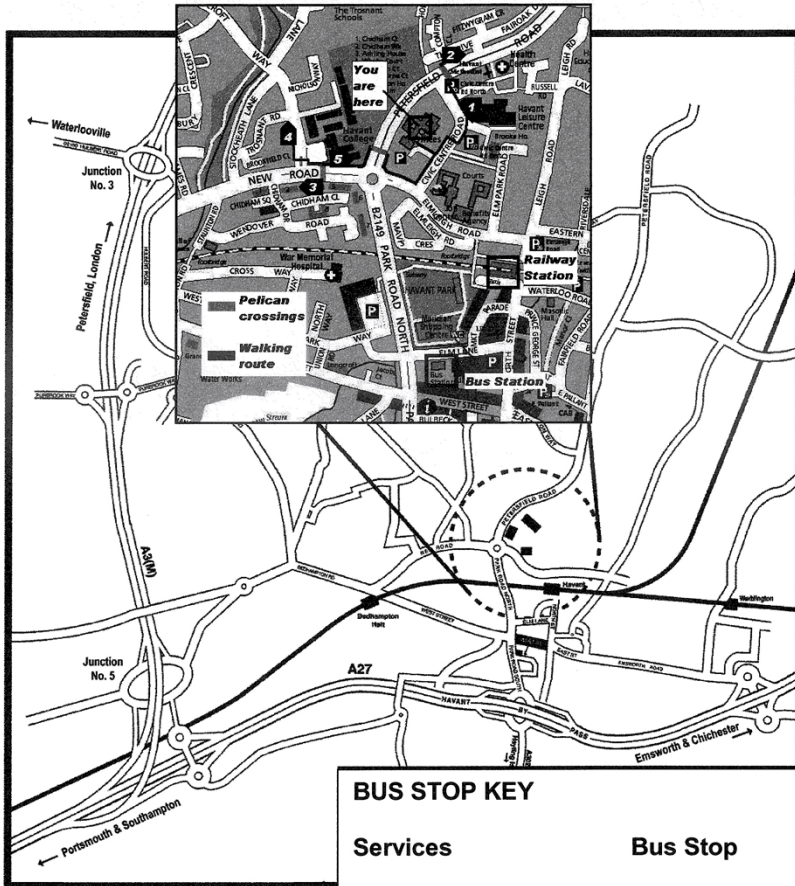
### PROTOCOL AT MEETINGS – RULES OF DEBATE

#### Rules of Debate

- Councillors must always address each other as “Councillor ...” and must always address the meeting through the Chairman;
- A motion must relate to the business included on the agenda or accepted by the meeting as urgent business
- A motion must be proposed and seconded before it is debated until it is either accepted or rejected by a vote;
- An amendment can be proposed to the original motion and this must be seconded before it is debated;
- An amendment cannot be considered if it is inconsistent with an amendment previously adopted or repeats an amendment previously rejected;
- The mover of an original motion may, with the consent of the mover of an amendment, incorporate an amendment into the motion;
- Only one amendment may be moved at a time. No further amendments can be moved until the previous amendment has been dealt with;
- Each amendment must be voted on separately;
- If an amendment is carried, the amended motion becomes the substantive motion to which further amendments may be moved;
- If an amendment is lost, other amendments may be moved to the original motion.
- The mover may withdraw an amendment at any time
- After an amendment has been carried, the Chairman will read out the amended (substantive) motion, before accepting any further amendment, or if there are none, put it to the vote.

#### Voting

- Voting may be by a show of hands or by a ballot at the discretion of the Chairman;
- Councillors may not vote unless they are present for the full duration of the item;
- Where there is an equality of votes, the Chairman may exercise a second (casting) vote;
- Two Councillors may request, before a vote is taken, that the names of those voting be recorded in the minutes
- A recorded vote will always be taken in respect of approval of the Annual Budget
- Councillors may not vote unless they are in the meeting for the full debate on any particular item
- A Councillor may request that his/her vote be recorded in the minutes



**BUS STOP KEY**

Services	Bus Stop
20, 21, 39, 63	1
20, 21, 36**, 39	2
23, 36**	3
23, 27**, 37	4
23, 27**, 36**, 37	5

\*\* - also stops "hail and ride" opposite Stop 1 in Civic Centre Road



**Havant**  
BOROUGH COUNCIL

Public Service Plaza  
Civic Centre Road  
Havant  
Hampshire PO9 2AX

Public  
Service  
Plaza

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## HAVANT BOROUGH COUNCIL

At a meeting of the Licensing Committee held on 11 May 2016

Present

Councillor Smith D (Chairman)

Councillors Cresswell, Hughes (Vice-Chairman), Kerrin, Sceal, Shimbart, Howard, Wade, Fairhurst, Mrs Blackett, Keast, Thomas, Hart and Bowerman

### **41 Apologies**

Apologies for absence were received from Councillor T Pike.

### **Chairman's Announcements**

The Chairman reported that, with the agreement of the Leader and in accordance with the provisions of the Council's Constitution, Councillor Tim Pike had been appointed to the Committee in place of Councillor E Rees.

### **42 Declarations of Interests**

There were no declarations of interest from any of the members present.

### **43 Licensing Act 2003 - Appointment of Licensing Sub Committee**

The Committee considered a report recommending the appointment of five Licensing Sub-Committees to undertake work arising under the Licensing Act 2003.

RESOLVED that

- (1) The Committee delegates functions under the Licensing Act 2003 to the Licensing Sub-Committee, with terms of reference as set out in paragraph 3.3 of the report; and
- (2) The Committee appoints the following of its members to stand as Chairmen of the Licensing Sub-Committee on a rotating basis:

Councillors: M Fairhurst; G Hughes; T Pike; G Shimbart and C Howard.

**The meeting commenced at 2.00 pm and concluded at 2.03 pm**

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THE BOROUGH COUNCIL OF HAVANT

At a meeting of the Licensing Committee held on 23 March 2016

Present

Councillor Smith D (Chairman)

Councillors Bains, Cresswell, Francis, Kerrin, Pike, Ponsonby, Shimbart and  
Quantrill

**32 APOLOGIES**

Apologies for absence were received from Councillors Gibb Gray, Howard,  
Hughes, Pierce Jones, Sceal and Wade.

**33 MINUTES**

The Minutes of the meeting of the Licensing Committee held on 23 March 2016  
were agreed as a correct record and signed by the Chairman.

**34 MATTERS ARISING**

There were no matters arising.

**35 DECLARATIONS OF INTERESTS**

There were no declarations of interests.

**36 CHAIRMAN'S REPORT**

The Chairman advised that since the last meeting of the this Committee, a  
meeting of the Licensing Sub Committee had been held to determine an  
application for an Adult Gaming Centre at The White Hart, 1 East Street,  
Havant. He advised the Committee that despite press coverage of this meeting,  
the Sub Committee had acted in a fair and proportionate manner and in making  
its decision had taken into account all material representations made by the  
applicant and the objectors: moral and ethical objections could not be applied in  
accordance with the Guidance to Licensing Authorities. He thanked Councillors  
Hughes and Shimbart, the other members of the Licensing Sub Committee, for  
their assistance in making the decision

**37 REQUEST FOR VEHICLE ADVERTISING AND LICENCE PLATE DISPLAY  
EXEMPTION - DRIVING MISS DAISY**

The Committee considered an application from Driving Miss Daisy for:

- (i) permission to display advertising graphics; and
  - (ii) an exemption from the requirements to a display licence plate
- on their private hire vehicles.

The Chairman outlined the Committee's procedure for dealing with this application.

The applicant was given an opportunity to address the Committee in support of her application and answered members' questions.

The Committee was advised that the applicant considered that car graphics, apart from branding purposes, were an important visual aid for the customers who would use the service, the majority of whom were elderly, with a proportion having dementia and/or sight issues.

The applicant, licensing officers and members of the public left the meeting during consideration of the application and were invited back into the meeting to receive the Committee's decision.

The Committee considered that in view of the special needs required by the applicant's potential customers it was appropriate for their vehicles to be distinctly decorated with the applicant's "Daisy" logo. The Committee also considered that in view of the distinctive graphics to be displayed on the vehicle(s), there was no need to also display a licence plate. It was therefore

RESOLVED that:

- (A) permission be granted for Driving Miss Daisy to display advertising graphics on their private hire vehicles licensed by the Council and
- (B) the requirement to display a licence plate on Driving Miss Daisy's private hire vehicles licensed by this Council be waived.

### **38 FILM CLASSIFICATION - "FEAR ITSELF"**

(the film was viewed by Councillors D Smith, Bains, Cresswell, Francis, Kerrin, Ponsonby and Shimbart before the meeting commenced)

The members of the Committee, who had viewed the film prior to the meeting, considered a report requesting a film classification rating for the film "Fear Itself" for exhibition at appropriately licensed venues within the Borough.

RESOLVED that the film "Fear Itself" to be shown within the Borough of Havant be awarded an 18 age restriction rating.

### **39 EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that the public be excluded from the meeting during consideration of the minutes headed and numbered as below because:

it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this item there would be disclosure to them of exempt information of the descriptions specified in paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 shown against the heading in question; and

in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Minute 40 Private Hire Vehicle Driver's Licence  
(Paragraphs 1 to 3)

#### **40 REVIEW OF DRIVER'S LICENCE**

*(this minute was taken in camera)*

The Committee was requested to consider whether the licensed driver IS continued to be a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

The relevant legislation stated that a district council shall not grant a licence "unless they are satisfied that the Applicant is a fit and proper person to hold a driver's licence".

There was no statutory definition of "fit and proper person" but case law suggested that the issue of whether an applicant was a fit and proper person should be approached by proper consideration of the objectives of the licensing regime. These objectives were intended to ensure that, so far as possible, those licensed to drive private hire vehicles were:

- safe drivers with good driving records and
- adequately experienced and
- sober and
- mentally and physically fit and
- honest and
- not persons who would take advantage of their employment to abuse or assault passengers and
- not persons who would take advantage of their employment to engage in criminal activity.

The Committee was advised of its powers under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The Chairman outlined the Committee's procedure for dealing with the possible revocation of a Hackney Carriage/Private Hire driver's licence.

The Licensing Officer presented her confidential report to the Committee.

Driver IS was given an opportunity to address the Committee in support of his case and answered members' questions.

The licensee and the licensing officers left the meeting during consideration of the application and were invited back into the meeting to receive the Committees decision.

The Committee considered that the conduct of the licensee was such that a vulnerable person was taken advantage of and as such the licensee was not regarded as a "fit and proper" person. The Committee was of the view that the safety of the public could not be guaranteed if the licence was restored. It was therefore

RESOLVED that the licence be hereby revoked.

**The meeting commenced at 6.00 pm and concluded at 7.40 pm**

.....  
**Chairman**

## HAVANT BOROUGH COUNCIL

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Licensing Committee

15 June 2016

### Proposed Changes to the Current Licensing Act 2003 Policy

Report of the Licensing Officer

Key Decision: No

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#### 1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek the views of the Licensing Committee with regard to amendments to the Council's draft statement of Licensing Policy, which was agreed in January 2016, prior to its submission to Full Council for approval (see Appendix A).

#### 2.0 RECOMMENDATION

THAT

- 2.1 The Committee approves the amendments to the Statement of Licensing Policy and recommends the Statement of Licensing Policy be submitted to Full Council for approval.

#### 3.0 SUMMARY

- 3.1 The Licensing Act 2003 requires Havant Borough Council (as the licensing authority) to publish its statement of licensing policy every five years. When drafting the policy, the Council is required to consult certain persons and groups of persons in the area, namely;
- a) The Chief Officer of Police for the area
  - b) The Fire and Rescue authority for the area
  - c) Persons / bodies representative of local holders of premises licences or club premises certificate
  - d) Persons / bodies representative of local holders of personal licences
  - e) Persons / bodies representative of businesses and residents in its area
  - f) Any other bodies the Licensing Authority deems appropriate.
- 3.2 The draft Statement of Licensing Policy was issued by Havant Borough Council and whilst during consultation we received no formal objections, we did welcome comments from the Fire Service and Trading Standards which have prompted the amendments.

- 3.3 The Fire Service commented that the policy did not show how different 'safe' and 'permitted' capacity numbers (see Appendix B) permitted by different authorities will be agreed and acted upon if they differ from each other. **Therefore an addition at 13.17 is proposed: 'In a case where different Responsible Authorities permit different 'safe' or 'permitted' capacity numbers for a premises, the Licensing Authority will consider the recommendations and make a determination as appropriate to the Licensing Objectives in each case.'**
- 3.4 Trading Standards informed that Accredited Community Support Officers (ASCOs) do not exist as they were disbanded, **therefore an amendment at 6.12.1 is proposed to replace 'Accredited Community Support Officer (ACSOs)' to 'Accredited Person (APs)'.**

### **3 IMPLICATIONS**

#### *Financial*

- 4.1 None arising directly from this item

#### *Legal*

- 4.2 As set out in paragraph 3.1 and 3.2 above

#### *Strategy (Community and Corporate)*

- 4.3 None arising directly from this item

#### *Equalities/Customers*

- 4.4 None arising directly from this item

#### *Risk*

- 4.5 None arising directly from this item

#### *Communications/Public Relations*

- 4.6 As set out in paragraphs 3.2 and 3.4 above

#### **Appendices:**

**Appendix A** - Havant Borough Council – Licensing Act 2003 – Statement of Licensing Policy – January 2016

**Appendix B** - extract of s182 Licensing Act 2003 Guidance regarding capacity numbers.

#### **Background papers:**

Nil

Agreed and Signed off by Legal Services:

**Contact Officer:** Hilary Smith  
Licensing Officer  
Tel: 023 9244 6653  
Email: [hilary.smith@havant.gov.uk](mailto:hilary.smith@havant.gov.uk)

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## **LICENSING ACT 2003**

## **HAVANT BOROUGH COUNCIL**

## **LICENSING POLICY 2016**

**(amendments to previous draft  
shown in larger font, in bold and  
italicised)**

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**HAVANT BOROUGH COUNCIL  
LICENSING ACT 2003  
SECTION 5  
Statement of Licensing Policy  
2016 - 2021**

**This document sets out the Council (“the Licensing Authority”) Licensing Policy in respect of its licensing functions for the next five years commencing in 2016. During the five year period the policy will be kept under review and revised when appropriate. Further licensing policy statements will be published every five years thereafter.**

The Licensing Act 2003 (“The Act”) introduces a requirement for all local authorities to set out their policy in respect of licences for the sale of alcohol, the provision of entertainment and the provision of late night refreshment. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the official Guidance issued under Section 182 of the Act.

Where any amendments are considered necessary, these will be made after consultation has taken place in accordance with Section 5(3) of the Act. Proper weight will be given to the views of all those consulted. Those to be consulted may include:

- The Chief Officer of Police for Hampshire
- The Chief Officer of Hampshire Fire & Rescue Service
- Bodies representing local holders of premises licences and club premises certificates
- Bodies representing local holders of personal licences
- Bodies representing businesses and residents in the Licensing Authority’s area
- Any other bodies the Licensing Authority deems appropriate

## **1. INTRODUCTION**

- 1.1 The Havant Borough is just over 30 square miles and serves a population of around 120,000 people.
- 1.2 The Havant Borough has many and varied licensed premises. The Licensing Authority recognises that these premises play a vital part in the cultural identity of the area and are important contributors to the local economy. The premises attract tourists and visitors and make for vibrant towns and communities, while at the same time providing employment.
- 1.3 There are approximately 328 licensed premises in the Borough where alcohol is sold or entertainment provided on a regular or occasional basis. These premises include:

- public houses
- off-licences
- businesses offering hot food between 2300 - 0500hrs
- hotels, guest houses, restaurants and other places that sell alcohol
- private members clubs and social clubs
- theatres and amateur dramatic groups
- cinemas
- premises where indoor sporting events take place

1.4 Havant Borough Council is the "Licensing Authority" as defined under the Licensing Act 2003 ("the Act") and is responsible for considering all applications for "licensable activities", as defined in section 1 of the Act. The purpose of licensing is to regulate the operation of licensable activities on licensed premises, qualifying clubs and at temporary events. Licensable activities, identified by the Act, include:

- Retail sale of alcohol
- Supply of hot food or hot drink from premises between 2300 - 0500hrs
- Supply of alcohol to club members
- Provision of entertainment listed below (known as "regulated entertainment") to the public or club members or with a view to profit:
  - Film exhibitions
  - Performances of a play
  - Indoor sporting events
  - Boxing or wrestling entertainment
  - Dance performances
  - Live music performances (some aspects exempt, see 13.19)
  - Playing of recorded music (some aspects exempt, see 13.19)

1.5 There are a number of exceptions and details of these are set out in Sections 173 to 175 and in Schedules 1 and 2 of the Act.

1.6 The Licensing Authority has established a Licensing Committee consisting of 15 Councillors. All matters relating to licensing functions come under the direction of this committee.

1.7 The Licensing Committee may establish one or more sub-committees to whom certain decisions will be delegated. In the interests of speed and efficiency the Licensing Committee may also delegate some licensing decisions and functions to authorised officers. The Licensing Committee may receive reports on decisions made by officers to inform its overview of licensing matters. Appendix 1 (Schedule of Delegation) sets out the framework for licensing decisions.

## **2. LICENSING OBJECTIVES**

- 2.1 The Licensing Authority recognises that the best means of promoting the licensing objectives (see paragraph 2.2) is through co-operation and partnership between local authorities, Police, local business, performers, local people and those involved in child protection.
- 2.2 When dealing with licensing matters the Licensing Authority will promote and have regard to the four licensing objectives set out in the Act. These are:
- The prevention of crime and disorder;
  - The promotion of public safety;
  - The prevention of public nuisance
  - The protection of children from harm.
- 2.3 The Licensing Authority's primary focus is the impact of licensed activities on those who are living or working in the vicinity of the premises concerned. Licensing law is not the primary mechanism for the control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises. This is beyond the direct control of the individual, business or club holding the licence or certificate concerned. Nonetheless, it is an important aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in this borough.

## **3. INTEGRATION OF THE POLICY INTO WIDER INITIATIVES**

- 3.1 Through consultation prior to publication, the Licensing Authority has endeavoured to ensure that this Policy is integrated with other local initiatives and that the views of other stakeholders who are involved, directly or indirectly in the promotion of the licensing objectives, are taken into account.
- 3.2 The Licensing Authority will work closely with the responsible authorities on issues of enforcement. Conditions attached to individual premises licences and club premises certificates may also reflect local crime prevention initiatives. Neighbouring authorities may also be consulted where appropriate.
- 3.3 The Licensing Authority recognises that there should be a clear separation of the planning and licensing systems.
- 3.4 Planning Permission can sometimes be required where use of all/part of a domestic residential property for business purposes or change of use/changes to opening hours where Planning Permission has already been granted. In these instances any Licence granted under the Licensing Act does not override any Planning Permission or condition requirements existing and applicants should discuss proposals with the Planning & Development Service to obtain the appropriate advice before starting any new business venture or making changes to any existing business operations that already benefit from formal Planning Permission.
- 3.5 Premises must also comply with all other relevant legislation that imposes specific controls on their activities that affect, for example

- gambling
  - food safety
  - environmental protection and noise
  - health and safety
  - fire safety
  - smoking
  - equality and diversity
  - planning and building controls
- 3.6 The Licensing Authority will seek to avoid duplication with other regulatory regimes wherever possible.
- 3.7 The Licensing Authority recognises that as part of implementing cultural initiatives it should encourage and promote live music, dancing and theatre for the wider benefit of the community.
- 3.8 The wider cultural benefits of entertainment will always be balanced with the need to prevent disturbance to local neighbourhoods. Care will be taken to ensure that only necessary and reasonable licensing conditions are imposed which do not discourage the promotion of entertainment.

#### **4. DETERMINATION OF LICENSING APPLICATIONS**

- 4.1 Each application will be determined on its individual merits.
- 4.2 Nothing in the Licensing Policy will:
- Undermine the rights of any person to apply under the Act for any licence, certificate or notice
  - Override the right of any person to make representations on any application or to seek a review of a licence or certificate where they are permitted to do so under the Act.
- 4.3 *Conditions* - Individual applicants are expected to promote the licensing objectives when making their application. Conditions that are attached to any licence may take into account matters such as the nature of the location, the type of premises, the regulated activities to be provided, the operational and management procedures of the premises and the needs of the local community. Applicants may refer to the Guidance issued under section 182 of the Licensing Act 2003 for assistance.
- 4.4 Where the Licensing Authority does not receive representation regarding the terms of an application it will grant the licence or certificate subject only to conditions that are consistent with the operating schedule. Mandatory conditions prescribed in the Act will also be included.
- 4.5 The Licensing Authority will not impose conditions unless its discretion has been engaged following the making of representations and it has been satisfied at a hearing of the necessity to do so. A hearing would not need to take place if all parties reach an agreement beforehand. Conditions will only then be imposed on licences and certificates where they are appropriate for the promotion of one or more of the four licensing objectives. Conditions will

also be tailored to the individual characteristics of the premises and licensable activities concerned.

- 4.6 Licensing hours - Flexible licensing hours for the sale of alcohol may help to avoid the possibility of large numbers of customers leaving premises simultaneously. This can help to reduce impact and disturbance at, for example, late night fast food outlets, taxi ranks and other sources of transport.
- 4.7 The Licensing Authority may permit shops, stores and supermarkets to sell alcohol for consumption off the premises at any time they are open for business. Where, however the Police make recommendations for the restriction of hours, then this will be considered. Every sale of alcohol must be authorised by a person who holds a personal licence.

## **5. TYPES OF LICENCES, CERTIFICATES AND NOTICES**

### **Personal licences**

- 5.1 A personal licence application may be granted to any applicant, who:
- Is ordinarily resident in the Licensing Authority's district
  - Is aged 18 or over
  - Possess a licensing qualification accredited by the Department of Culture, Media and Sport (DCMS) or is a person of a prescribed description as determined by the Secretary of State.
- 5.2 A licence will not be granted to any applicant who has had a personal licence forfeited within the five year period preceding the date of the application.
- 5.3 Every application for a personal licence must be accompanied by details of convictions of any relevant or foreign offences in the prescribed form. This will assist the Licensing Authority in determining whether the applicant has any relevant unspent convictions.
- 5.4 The police may oppose an application if an applicant has a relevant unspent conviction or a conviction for a comparable offence in a foreign jurisdiction and believe the grant of a personal licence would undermine the crime prevention licensing objective. If a police objection is received the application will be determined by the Licensing Committee or Sub-Committee at a hearing where all representations relevant to application, will be taken into consideration. These may include the nature of any offences, the time since their occurrence and any mitigating circumstances. The applicant may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. There will be no need for a hearing if the applicant, Licensing Authority and Chief Officer of Police agree that it is not necessary.

### **Premises Licences**

- 5.5 A Premises Licence is required for any premises used for one or more licensable activities as defined in paragraph 1.4. Those who may apply for licences are defined in section 16 of the Act as:

‘Any person who is 18 or over and who carries or intends to carry on a business which involves the use of premises for licensable activities may apply for a premises licence either on a permanent or time-limited basis. Certain other individuals and groups, including registered clubs, charities, National Health Service organisations etc may also apply for a licence.’

5.6 The requirements in relation to applications for Premises Licences are set out in section 17 of the Act. An application for a Premises Licence must be made on the prescribed form to the Licensing Authority (with copies to each of the appropriate responsible authorities, see paragraph 5.9). The application must be accompanied by:

- An operating schedule that demonstrates that the licensed premises can comply with the Licensing Authority's licensing policy and will promote the licensing objectives.
- A plan of the premises to which the application relates in the prescribed form
- A form of consent from the individual who is to be specified in the licence as the Designated Premises Supervisor (where the application involves the sale of alcohol)
- The relevant fee

Fee levels and prescribed forms may be viewed on the Havant Borough Council website.

5.7 Applicants for Premises Licences and Club Premises Certificates are encouraged to speak to the Licensing Authority (and to the responsible authorities where relevant) for an informal discussion before submitting an application. Unless making an electronic application, applicants are required to copy details of their applications to the “responsible authorities”, namely:

- The Chief Officer of Police;
- The local fire and rescue authority;
- The local enforcement agency for the Health and Safety at Work etc Act 1974 (Environmental Health)
- The local Environmental Health authority
- The local Planning Authority;
- A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- The local weights and measures authority (Trading Standards)
- Any licensing authority, other than the relevant licensing authority, in whose area part of the premises are situated.
- The local Primary Care Trust

(see details of licensing contacts in Appendix 2)

5.8 Applicants are also required to advertise the application by placing notices on the premises and in a local newspaper.

Further information and links to the electronic application procedures are available on the Council's website.



## **Provisional Statements**

- 5.9 Where premises are to be constructed, extended or substantially altered, new applicants or existing licence holders can apply for a Provisional Statement. This is a system of prior approval where a Premises Licence covering the desired licensable activities would be granted once the building work is completed. Where responsible authorities or interested parties make representations a hearing will be held. The Licensing Authority may attach conditions to promote any of the licensing objectives. It is recognised that structural alterations which change the layout and character of an existing licensed premises can have an effect on the licensing objectives. Detailed consideration is therefore required.
- 5.10 It is possible for community, church and village halls to apply under section 25A(6) to remove the mandatory condition of requiring a DPS and replace with an alternative licence condition in which a management committee is responsible for the supply of alcohol. This removes some of the associated burdens that the current conditions place on volunteers. A management committee of a community, church or village hall that seeks the removal of the conditions from an existing licence, or wishes to apply for a licence that does not include them, will need to apply to the Licensing Authority for the conditions to be removed and the alternative condition imposed instead. There will be no automatic disapplication of the conditions in respect of any premises.

## **Club Premises Certificates**

- 5.11 The Licensing Authority acknowledges that premises to which public access is restricted, and where alcohol is supplied not for profit, are distinct from commercial enterprises selling direct to the public. Premises holding Club Premises Certificates do not have the requirement for a Personal Licence holder or Designated Premises Supervisor.
- 5.12 If the Club decides that it wishes to offer its facilities commercially for use by the general public the Licensing Authority will consider an application for a Premises Licences. The applicant should consider whether any planning consent must be sought prior to the submission of the Premises Licence application.
- 5.13 When a premises has the benefit of a Club Premises Certificate, an application may be made to allow those running the premises to supply alcohol for consumption off the premises to its members. Such supply will only be allowed during the hours that the premises are open for supply of alcohol to its members on the premises.

## **Temporary Event Notices**

- 5.14 Temporary events involving licensable activities will be permitted if certain criteria are fulfilled. The Licensing Authority encourages persons organising events (“premises users”) to have due regard to any concerns of occupiers of premises sited adjacent to the proposed venue.

- 5.15 When a temporary event is proposed, notice of the event must be made to the Licensing Authority, the Chief Officer of Police and the Local Authority department (Environmental Health) responsible for minimizing or preventing the risk of pollution of the environment or of harm to human health (Environmental Health) at least 10 working days before the event is due to start. Organisers are encouraged to do this well before the statutory period is reached so that any problems can be resolved early.
- 5.16 There is also the facility to apply for a 'Late Temporary Event Notice' which can be submitted at least 5 working days before the event.
- 5.17 On receipt of a Temporary Event Notice the Licensing Authority will issue an acknowledgement or a counter notice. A counter notice relates to circumstances where certain limits permitted under the Act for running temporary events have been exceeded. These limits are detailed in section 107 of the Act.
- 5.18 If the Chief Officer of Police and the Local Authority department (Environmental Health) are satisfied that the event will undermine any of the four licensing objectives, an objection notice stating the reasons will be served on the premises user and the Licensing Authority within 3 working days.
- 5.19 The Licensing Authority will then hold a hearing to consider the objections unless all parties agree that a hearing is unnecessary. If the Licensing Authority agrees with the Police or Local Authority (Environmental Health) objection then it will serve a counter notice on the premises user. This counter notice means that permission for the temporary event has not been granted.
- 5.20 The Police and the Local Authority department (Environmental Health) are the only statutory consultee. When an application is received by the Licensing Authority however, it will (for information purposes only) notify the other responsible authorities where appropriate.

## **6. CUMULATIVE EFFECT AND SPECIAL SATURATION POLICIES**

- 6.1 The Licensing Authority will not take 'market need' into account for a particular type of premises in its area when considering a licence application. This is a matter for planning development control and the open market.
- 6.2 The Licensing Authority recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder.
- 6.3 Representations may be received from a responsible authority (see paragraph 5.7) or any other person that an area has become saturated with premises making it a focal point for large groups of people. This concentration of premises may create exceptional problems of crime and disorder and public nuisance over and above the impact from the individual premises.
- 6.4 In these circumstances, the Licensing Authority may decide that the application of specific conditions is unlikely to address these problems. It may

instead consider refusing new premises licences or club premises certificates if it believes that granting of additional licences would undermine the licensing objectives.

- 6.5 To do this the Licensing Authority will first adopt a “special saturation policy”. For this the Licensing Authority will follow these steps:
- identification of concern about crime and disorder or public nuisance
  - consideration of whether crime and disorder or public nuisance problems are arising and are being caused by the customers of licensed premises.
  - identifying the area from which problems are arising and the boundaries of that area. (Alternatively, the risk factors may be such that the area is reaching a point when a cumulative effect is imminent. Evidence of anti-social behaviour from Crime and Disorder Reduction Partnerships and noise disturbance from Environmental Health officers will be taken into account)
  - consultation with those specified in section 5(3) of the Act
  - subject to that consultation, inclusion of a “special saturation policy” about future premises licence or club premises certificate applications from that area within the terms of this licensing policy
  - publication of the “special saturation policy” as part of the statement of licensing policy required by the Act
- 6.6 Where a “special saturation policy” is adopted by the Council any new application would normally be refused. Applicants will need to demonstrate in their operating schedules why the operation of the premises would not add to the cumulative impact already being experienced. Where representations are received, however, the onus will also be on the objector to provide evidence that the addition of the premises in question would produce the cumulative impact claimed. The impact will be different for premises with different styles and characteristics.
- 6.7 The Licensing Authority may approve licences that are unlikely to add significantly to the cumulative impact, e.g. restaurants, theatres etc. Departures from the “special saturation policy” may be made and the Licensing Authority will always consider the circumstances of each individual application on its own merits.
- 6.8 The adoption of a “special saturation policy” does not relieve responsible authorities or any other person of the need to make a relevant representation before the Licensing Committee.
- 6.9 Once adopted, special saturation policies will be reviewed regularly to assess whether they are still required.
- 6.10 A “special saturation policy” will not be used as a ground for revoking an existing premises licence or certificate when representations are received about problems with those premises. The “special saturation policy” will also not impose any trading hours, terminal hours or quotas (number or capacity of premises) as this would remove regard to the individual characteristics of the premises concerned.

6.11 Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These include:

- Positive measures to create a safe and clean town centre environment in partnership with local businesses and residents, transport operators and other departments of the local authority
- Power of local authorities to designate parts of the district as alcohol-free areas
- The confiscation of alcohol from adults and children in designated areas.
- Police enforcement of legislation concerning disorder and anti-social behaviour including the issuing of fixed penalty notices and community protection notices.
- The prosecution of any Personal Licence holder or member of staff at premises that are selling alcohol to people who are either drunk or under-age
- Police powers to close any licensed premises or temporary event immediately for up to 24 hours, on grounds of disorder or excessive noise emanating from the premises.
- The power of the Police and other responsible authorities or an interested party to seek a review of the licence or certificate in question.

6.12.1 The Borough of Havant is subject to a Designated Public Places Order (DPPO). This order empowers the Police, Police Community Support Officers (PCSOs) and **Accredited Person (APs)** to remove alcohol from individuals involved in anti-social behaviour. The Designated Public Places Order was made by the Local Authority under Section 13 of the Criminal Justice and Police Act 2001.

However, where the Local Authority occupies or manages a premises, or where premises are managed on its behalf and it licenses that place for alcohol sales, the DPPO (as amended under Section 26 of the Violent Crime Reduction Act 2006) will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be the subject to the DPPO at all other times. This will allow local authorities to promote community events whilst still using DPPOs to tackle the problems of anti-social drinking.

6.12.2 A Community Alcohol Partnership (CAP) was launched in March 2012 on Hayling Island which focuses on the nuisance created by young people drinking alcohol in public places and becoming involved in anti-social behaviour, vandalism. It also aims to address the problem of adults purchasing alcohol for young people and being able to access alcohol from home supplies.

## 7. LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS

7.1 The Late Night Levy, introduced by the Police Reform and Social Responsibility Act 2011, enables licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing and cleaning after the night-time economy. It is a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority's area. However, the licensing authority will also choose the period during

which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.

At present Havant Borough Council has not exercised this power. Should it choose to introduce the Late Night Levy it must consider the costs of policing, cleansing and other arrangements for the reduction or prevention of crime and disorder. In connection with the supply of alcohol between midnight and 6 am, and having regard to those costs, the desirability of raising revenue to be applied in accordance with the legal application of net amount of levy payment.

- 7.2 An Early Morning Alcohol Restriction Order (EMRO) enables licensing Authorities to restrict sales of alcohol in the whole or a part of their area for any specified period between 12 midnight and 6 am if they consider it appropriate for the promotion of the licensing objectives. The Police Reform and Social Responsibility Act 2011 extended the flexibility of the existing EMRO power in the 2003 Act to provide Licensing Authorities with an additional tool to shape and determine local licensing, and to address specific problems caused by late night drinking.

At present the Licensing Authority has decided not to exercise this power.

## **8. REPRESENTATIONS, REVIEWS AND APPEALS**

- 8.1 Responsible authorities or any other person may make representations (in opposition or in support) to the Licensing Authority in writing on any application to grant, vary or review a Premises Licence or a Club Premises Certificate. A representation must be relevant to any of the four licensing objectives and not be frivolous, repetitious or vexatious.
- 8.2 If the Licensing Authority determines that the representations are relevant then a hearing will be held to consider them. In determining an application the Licensing Authority will give the appropriate weight to:
- The steps that are necessary to promote the licensing objectives;
  - The representations (including supporting information) presented by all the parties;
  - The Act
  - The Guidance issued under section 182 of the Licensing Act 2003
  - Its own Licensing Policy
- 8.3 The Licensing Authority can only review a licence or certificate where it is alleged that the licensing objectives are not being met. The Licensing Authority will then hold a hearing to consider the merits of an application where the representation is considered relevant as defined in section 51 of the Act. The licence holders and objectors will be informed of the hearing protocol and will be invited to attend hearings to present their arguments. Hearings will be held promptly so that the issue can be dealt with efficiently and effectively.

- 8.4 Before arrangements for a review are initiated, authorised officers (licensing officers or officers of the responsible authorities) will make every effort to consult with the review applicant and licence holder in an attempt to resolve any issues informally.
- 8.5 Following a Review Hearing the Licensing Authority may:
- modify the conditions of the licence/certificate
  - exclude a licensable or qualifying club activity from the scope of the licence/certificate
  - remove the Designated Premises Supervisor (premises licence only);
  - suspend the licence/certificate for a period not exceeding three months
  - revoke the licence/withdraw the certificate
- 8.6 Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through a premises being used in connection with crime, then revocation of the licence (even in the first instance) will be seriously considered.
- 8.7 The Act contains provision for appeals by aggrieved parties against decisions made by the Licensing Authority. Appeals must be made to the Magistrates' Court for the area in which the premises is situated. For Personal Licences the appeal must be made to the Magistrates' Court for the area in which the Local Authority's decision was made.
- 8.8 The rights of appeal and reasons for the decision(s) taken by the Licensing Authority will be provided to all parties concerned with any licensing decision. The decision will have regard to the Licensing Authority's Licensing Policy, statutory guidance, Regulations and the Act itself.

## **9. ENFORCEMENT**

- 9.1 Havant Borough Council aims to protect the safety and welfare of people, including members of the public, who may be exposed to risks from the way that licensable activities are carried out and to protect the interests of those who may be adversely affected by such activities if they are unregulated.
- 9.2 The use of enforcement powers, including prosecution, is important, both to secure compliance with the law and to ensure that those who have duties under the law may be held to account. Enforcement action instigated by the Licensing Authority will have regard to the Council's Policy on Regulation and Enforcement.
- 9.3 Where a Licensing Authority is notified by a Court or the Police regarding the issue of a premises closure order, it must review the premises licence within 28 days of receipt of the notice.

## **10. OFFENCES**

- 10.1 The Part 7 of the Act sets out a number of offences and proceedings, such as prosecution, may be instigated by the following:

- The Local Authority
- The Police
- The Crown Prosecution Service
- In the case of an offence under section 146 or 147 (sale of alcohol to children), by Hampshire Trading Standards Department.

## **11. EQUAL OPPORTUNITIES**

- 11.1 The Equality Act 2010 places a legal obligation on public authorities to have due regard to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.2 Protected Characteristics are, Age, Disability, Gender reassignment, Marriage and civil partnership, Pregnancy and maternity, Race, Religion or belief, Sex and Sexual orientation
- 11.3 The Local Authority may assess and consult on the likely impact of proposed policies on equality and it may monitor policies for any adverse impact on the promotion of equality, and may publish the results of such consultations, assessments and monitoring.
- 11.4 It is the Licensing Authority's policy that nothing within this statement of licensing policy will undermine the right of any individual to apply for any licence or authorisation provided for under the Act. Equally, nothing within this statement of licensing policy will undermine the right of any individual to make representation(s) on an application or to seek a review of an existing licence or certificate. In addition, no applicant or licence holder will be disadvantaged by conditions or requirements which are not relevant to their application or to their licence or to the four licensing objectives.

## **12. DATA PROTECTION**

- 12.1 The Licensing Authority may use the information submitted on any application form for any licence(s) or permission(s) provided for under the Act for the purpose of its statutory function(s) under the Act.
- 12.2 All applicants have the right to ask for a copy of the information that the Licensing Authority holds about them under the Act.
- 12.3 By making an application to the Licensing Authority for any licence or permission under the Act, all applicants consent to our processing sensitive personal data about them where this is necessary and lawful.
- 12.4 The Licensing Authority will maintain registers of all matters detailed in Schedule 3 of the Act and any other information prescribed by regulations.

Any person is permitted to obtain a copy of this information from the Licensing Authority. Public registers may be available via the Council's website.

### **13. OPERATING SCHEDULES**

- 13.1 The Operating Schedule forms part of the completed application for a Premises Licence. It should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. Specific requirements on what the schedule should contain and how it should be presented are contained in sections 17 and 71 of the Act and in regulations. General policies relevant to each of the licensing objectives are detailed below.
- 13.2 In order to minimise problems and the necessity for hearings, the Licensing Authority encourages applicants and clubs to consult with the responsible authorities when operating schedules are being prepared. The Licensing Authority will provide guidance to applicants to aid this process.
- 13.3 Any individual preparing an operating schedule may volunteer any additional measures intended to be taken to promote the licensing objectives. It should be noted however that if incorporated into the licence or certificate as a condition, then these measures will become enforceable under the Act. A breach of a condition may result in prosecution.

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

- 13.4 The following are offences under the Act:
- To sell or supply alcohol to a person who is drunk.
  - To knowingly allow disorderly conduct on licensed premises.
  - For the holder of a premises licence or a Designated Premises Supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported or acquired.
- 13.5 To promote the prevention of crime and disorder the range and scope of control measures will depend on a number of factors. These may include
- nature and style of the venue
  - activities being conducted there
  - location of the premises
  - anticipated clientele of the business involved
  - past record of the premises
- 13.6 The applicant may indicate in the Operating Schedule the steps he/she proposes to prevent crime and disorder. Where appropriate and necessary, the Licensing Authority will consider attaching conditions to licences and certificates to prevent crime and disorder. These may be drawn from the information relating to the prevention of crime and disorder objective contained in the Guidance issued under section 182 of the Licensing Act 2003.



- 13.7 It is recognised that Club Premises may operate under their own codes of discipline to ensure the good order and behaviour of members.
- 13.8 The Licensing Authority will expect licence holders to have adequate management practices in place, as well as suitable training for staff, to ensure that sales of alcohol are not made directly or indirectly to persons under the age of 18. Practices also need to be in place to ensure that sales are not made to persons who are either drunk or who may commit crime and disorder.
- 13.9 The government published its Alcohol Strategy in 2012 and The Retail of Alcohol Standards Group produced its Guidance for the Responsible Retailing of Alcohol in 2014. The Licensing Authority encourages all retailers of alcohol to adhere to the guidance and this will be taken into account when there is a complaint made against a Premises Licence or Club Premises Certificate.
- 13.10 The Licensing Authority will also expect licence holders to be aware of the misuse of drugs and to take all reasonable steps to prevent the entry of drugs into licensed premises. Licence holders must take appropriate steps to prevent drugs being supplied within the premises.
- 13.11 The Licensing Authority will expect licence holders of venues likely to be affected by alcohol or drug abuse to be familiar with the guidance issued by the British Institute of Inn Keeping on drug awareness. Licence holders should also take account of the recommendations of the appropriate British Institute of Inn Keeping Awarding Body training handbooks.
- 13.12 Licence holders must make themselves aware of the detail of the new mandatory conditions that came into force in 2010 and 2014. These conditions include:
1. New controls on irresponsible promotions (such as certain types of drinking games, provision and promotion of discounted or free alcohol, alcohol as prizes etc.)
  2. The provision of free tap water
  3. Age verification procedures
  4. Provision of alcohol in smaller measures
  5. Minimum pricing

### **Public Safety**

- 13.13 The safety of members of the public must be protected when they visit licensed premises. Applicants must demonstrate that they have considered and put into effect, measures to protect:
- customers
  - the interests of premises in the vicinity and
  - members of the public (including those living in the vicinity)
- 13.15 The Licensing Authority will expect operating schedules to address the possible risks to public safety and to detail how the premises will be properly managed and maintained to ensure public safety at all times.

13.16 Where appropriate the Licensing Authority will consider attaching conditions to licences and certificates to promote public safety. These may be drawn from the information contained in the Guidance issued under section 182 of the Licensing Act 2003.

13.17 ***In a case where different Responsible Authorities permit different 'safe' or 'permitted' capacity numbers for a premises, the Licensing Authority will consider the recommendations and make a determination as appropriate to the Licensing Objectives in each case.***

### **Prevention of Public Nuisance**

13.18 The Licensing Authority will exercise its responsibilities to prevent public nuisance being caused by licensable activities. Public nuisance can range from low level nuisance affecting a small number of people to widespread disturbance affecting the whole community. Public nuisance associated with licensable activities may arise from a range of causes including noise, odour, light emission and litter. The Licensing Act, and powers contained therein, will be the default remedy to address these issues associated to premises where a valid licence is in place. To prevent public nuisance the Licensing Authority will seek to ensure that:

- Effective and proportionate controls are in place to prevent public nuisance arising from any licensed activity
- Evidence of public nuisance brought to the attention of the Licensing Authority will be considered. Where necessary the Licence will be amended or revoked to reduce the likelihood of further nuisance
- Where it is in the public interest enforcement action will be considered in accordance with the adopted Local Authority Enforcement Policy.

13.19 The Licensing Authority's decisions will be evidence based; with due regard and weight attributed to any evidence brought forward by Responsible Authorities or interested parties.

13.20 *Noise* - Licensable activities may create noise. In some cases this may lead to changes in the character of a location and to occasional increases in noise and disturbance. This must be balanced against the other objectives of the Licensing Act. The Live Music Act 2012 and Legislative Reform (Entertainment Licensing) Order 2014 de-regulated some forms of entertainment.

There is a range of reactive statutory provisions available to responsible authorities to deal with certain types of nuisance in some circumstances. The Environmental Protection Act 1990 provides remedies in respect of statutory nuisance arising from noise, odour and light in certain circumstances. In respect of nuisance arising from commercial premises, a number of defences are available. In addition, the provisions of Part 8 of the Licensing Act 2003 enables a senior police officer to immediately close down (for up to 24 hours) any licensed premises or temporary event causing a public nuisance. Similar powers under the Anti-social Behaviour Crime and Policing Act 2014 are available to the Chief Executive of the relevant Local Authority (section 76).

The provisions of the Licensing Act, however, provide an opportunity to seek to prevent nuisance from occurring in the first place. This can be achieved by applicants planning and implementing appropriate strategies to prevent nuisance at the outset by including relevant preventative measures within their Operating Schedule

13.21 *Sources of Noise* – Public noise nuisance can be caused by a variety of different noise sources associated with licensable activities. These include:

- Noise from music, singing and speech originating from inside or outside a building
- Activities within gardens and play areas
- Rowdy behaviour
- Use of car parks and access roads
- Delivery, collection and storage activities
- Staff activity
- Cleaning and washing-up activities
- Plant, machinery and equipment

13.22 The factors that are most important in determining whether the noise impact is likely to be significant in terms of public nuisance include:

- Loudness of the noise
- Character of the noise
- Time of the day when the noise is created. (Noise created during the late evening or night time is much more likely to be a problem)
- Frequency and duration of the noise
- Proximity of residential or business premises where occupants may hear the noise
- Existing noise levels in the area

13.23 Any activity including public entertainment, eating or drinking on or near the premises has the potential to adversely impact the surrounding area. The impact of noise generated by these activities and by customers departing either on foot or in cars is particularly intrusive at night when ambient noise levels are much lower.

13.24 *Control of noise* – A range of specific control measures are available for reducing noise and preventing public nuisance. These control measures can be grouped into the following broad strategies:

- Engineering controls e.g. noise control for plant and equipment, sound insulation of buildings
- Regard for the location of noisy premises relative to the location of noise sensitive sites
- Administrative controls e.g. hours during which amplified music may be played, sound limiting devices, management and supervision
- Providing information e.g. information to direct clientele to leave quietly

Modest levels of noise created inside a building can usually be attenuated by traditional building structures provided simple measures are taken; such as closing

doors and windows. High levels of noise such as that generated by amplified music or associated with live performances or discos may require buildings to be modified to prevent the escape of sound energy.

13.25 Noise generated from outside buildings is much more difficult to control. If acceptable then administrative controls to limit the times of activity and the provision of information to encourage dispersal will be appropriate.

13.26 A number of specific issues that pose particular risk of public nuisance are identified below:

- *Garden areas and outdoor smoking areas*

The beer gardens of public houses are an asset to the premises. Similarly, the provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. Late at night, however the use of these same tables and chairs can contribute to noise problems as they can encourage patrons and passers by to loiter rather than disperse.

The use of tables and chairs for recreation and refreshment on the public highway requires a separate licence issued by the local authority under the provisions of the Highways Act 1980. Where appropriate, time restrictions may be placed on the use of outside chairs and beer gardens to prevent adverse impacts on the safety and amenity of local residents.

- *Amplified music*

Amplified music poses a particular risk of nuisance if it is loud or is dominated by low (bass) frequencies. In respect of potential public noise nuisance from public houses, clubs, hotels' discotheques, restaurants, cafes, community halls and similar premises, account should be taken of the recommendations set out in guidance documents such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, March 2003 (Institute of Acoustics).

To establish the risk of public noise nuisance the Operating Schedule will need to set out the type and frequency of activities that the licensed premises intends to carry out. The control measures that need to be implemented to prevent public nuisance may include:

- Improvements in the level of sound insulation provided
  - Provision of lobbied entrances
  - Provision of a mechanical ventilation or air conditioning system
  - Management methods for controlling the volume of noise
  - Use of a house sound system only
  - Use of devices to automatically limit noise volume in the premises
  - Design and location of the loudspeakers
  - Controls over the times music is played
- *Outdoor events involving music*

These types of events pose particular risks of public nuisance. Account should be taken of extant guidance; the Noise Council Code of Practice on Environmental Noise at Concerts for example will establish a generic baseline to be adopted.

- *Plant and equipment*

Fixed plant and machinery such as refrigeration equipment, air conditioning plant and cooking extraction systems, if not properly located, designed, constructed and maintained can cause noise disturbance. The noise produced may not be a problem during the early evening but may cause disturbance to local residents later at night when they are trying to sleep. Applicants proposing to operate such plant and machinery should demonstrate in their Operating Schedules that these noise sources have been properly assessed and noise abated.

- *Structurally attached*

Where premises that are intended to be used for loud music are structurally attached to residential or other sensitive uses these may pose difficult engineering problems in preventing structurally transmitted noise problems. Generally, these types of use will be unacceptable, unless proven engineering solutions have been designed, incorporated and then tested. In these circumstances any Licence may be conditional on the modelled, projected benefits of a scheme being evidenced through real time testing and assurance.

- *Clientele leaving premises*

The Licensing Authority encourages operators of popular venues (including takeaways), which attract queues, to help reduce disturbance to local residents. This can sometimes be achieved through the use of door supervisors or by ensuring that the direction of the queue is as far away as possible from residential accommodation. Applicants should also address in their Operating Schedules practical measures to control the disturbance from patrons leaving the premises, particularly after midnight.

- *Odour*

Public odour nuisance can be caused by a variety of activities associated with licensed premises. This includes:

- Inadequate storage of food waste
- Cooking activities
- Cooking extract systems

Particular care is needed in the design of extract systems serving cooking areas. Account should be taken of the guidance contained within the DEFRA Guidance on the control of odour and noise from commercial kitchen extractor systems.

- *Light*

Public nuisance may arise from artificial illumination used in open areas such as gardens. Lighting should not be permitted to create excessive illumination at neighbouring property and should be shielded and directed to avoid glare. Account should be taken of guidance on reduction of obtrusive light, for example, that issued by the Institute of Lighting Professionals.

- *Smoking and Litter*

It is illegal to smoke in an enclosed or substantially enclosed public or work place. Whilst smoking is not a regulated activity under the Act, the volume of patrons smoking outside premises in gardens and purpose built shelters has increased since these provisions came into force. Premises staff will need to have regard to the additional noise from patrons who have moved outside to smoke and should introduce suitable controls to combat this. Whilst premises staff may not be held wholly responsible for the actions of its customers once they leave a venue, those using gardens or who intend to return to the premises, do remain the responsibility of the site.

Premises staff should also take particular steps to combat litter from smoking as this may give rise to complaints.

- 13.27 The Operating Schedule provides the opportunity for applicants to demonstrate that they understand the risks of public nuisance posed by their intended application and have identified appropriate means to control these risks. The Licensing Authority may attach conditions to licenses that are consistent with the Operating Schedule.

The Licensing Authority will expect Operating Schedules to take account of the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided and the needs of the local community. The Licensing Authority encourages applicants to consider how they intend the Licensed Premises to remain a “good neighbour” both to residents and to other businesses.

Where there is an identified risk of public nuisance, the Operating Schedule may need to be supplemented by technical reports.

Where appropriate the Licensing Authority will consider attaching conditions to licenses and certificates to prevent public nuisance. These may be drawn from information relating to the prevention of public nuisance in the Guidance issued under section 182 of the Licensing Act 2003.

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

- 13.28 The Licensing Authority does not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. Each application will be determined on its own merit on a case by case basis.

13.29 It is unlawful under the Act:

- To allow an unaccompanied child (under 16 years old) to be present on premises which are “exclusively or primarily” used for the supply and consumption of alcohol there, (e.g. public houses) or
- To allow an unaccompanied child to be present on premises used for the supply of alcohol for consumption there between midnight and 0500hrs, (e.g. premises such as restaurants).

Both these offences relate to the times when a premise is open for business.

13.30 Where appropriate the Licensing Authority will consider attaching conditions to licences and certificates to protect children from harm. These may be drawn from information relating to the protection of children from harm issued under section 182 of the Licensing Act 2003.

13.31 Specific attention will be necessary in the following situations:

- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- Premises with a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- Where entertainment or services of an adult or sexual nature is provided. This will include topless bar staff, striptease, lap dancing, tabletop or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

13.32 When deciding whether additional conditions should be imposed the Licensing Authority will consider each application on its own merits. In such cases, it may, in exceptional circumstances, impose a complete prohibition on the admission or presence of children. The type of controls the Licensing Authority may impose include:

- 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 premises to which children might be given access
- Age limitations
- Requirements for accompanying adults and
- Full exclusion of people under 18 from the premises when any or certain licensable activities are taking place

- 13.33 Where there is provision of entertainment specifically for children (e.g. children's disco) or where the children themselves are performers, the Licensing Authority will normally require the presence of sufficient adults to control the access and egress of the children and to ensure their safety.
- 13.34 Venue operators seeking premises licences and club premises certificates may volunteer prohibitions and/or restrictions in their Operating Schedules if they have determined that the presence of children is undesirable or inappropriate.
- 13.35 The Portman Group's 'Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks' seeks to ensure alcoholic drinks are packaged and promoted in a socially responsible manner and only to persons 18 years or older. It plays an important part in protecting children from harm because it addresses the naming, marketing and promotion of alcoholic products sold in licensed premises in a manner which may appeal to or attract minors. The Licensing Authority recommends the use of this code.
- 13.36 Hampshire Trading Standards, in its agreed protocol with Hampshire Constabulary, has primary responsibility for enforcing legislation to prevent under-age sales from off-licensed trade. Further information is available in the Retail of Alcohol Standards Group 'Guidance for the Responsible Retailing of Alcohol in England and Wales.'
- 13.37 Where appropriate, the Licensing Authority expects licence holders to include in their Operating Schedule arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.
- 13.38 Where the exhibition of films is permitted, the authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be fully met.
- 13.39 For specialist film festivals, where it is desired to show films not classified by the BBFC, the Licensing Authority may classify the films concerned. The Licensing Authority may use the guidelines published by the BBFC to do this.

**The Licensing Authority welcomes comments and observations on this Policy. These should be addressed to:**

The Licensing Officer  
Havant Borough Council,  
Public Service Plaza, Civic Centre Road  
Havant, Hampshire PO9 2AX  
Tel: 023 92446660  
Email: [licensing@havant.gov.uk](mailto:licensing@havant.gov.uk)



# APPENDIX 1

## SCHEDULE OF DELEGATIONS

<b>Matter to be dealt with</b>	<b>Licensing Committee or Sub-Committee</b>	<b>Authorised Officer</b>
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no representation made
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	
Decision on whether a complaint is irrelevant, frivolous or vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police and/or Environmental Health objection to a temporary event notice	All cases	
In cases where the Magistrates' Court has determined the licence on appeal		All cases

Application for a minor variation to a premises/club premises certificate		All cases
Application by holder of a community premises licence to dis-apply the requirement for a DPS		All cases

## **APPENDIX 2**

### LICENSING CONTACTS

<b>Havant Licensing</b>	Licensing Team Havant Borough Council, Public Service Plaza, Civic Centre Road Havant, Hampshire PO9 2AX Telephone: 023 9244 6660 licensing@havant.gov.uk
<b>Police Licensing</b>	Fareham Police Station Quay Street Fareham Hampshire PO16 0LE Tel: 101 force.licensing@hampshire.pnn.police.uk
<b>Police Headquarters</b>	HQ, West Hill, Winchester SO22 5DB Tel: 101 Fax: 01962 871204
<b>Fire</b>	Hampshire Fire and Rescue Service HQ Business Fire Safety, Leigh Road, Eastleigh Hampshire SO50 9SJ Tel: 02392 855180 csprotection.admin@hantsfire.gov.uk
<b>Environmental Health</b>  <b>Public Nuisance</b> (noise, odour etc)	Environment Health Havant Borough Council Public Service Plaza, Civic Centre Road Havant, Hampshire PO9 2AX Tel: 023 9244 6670 EHEnvironment@havant.gov.uk
<b>Planning</b>	Head of Planning & Development Havant Borough Council Public Service Plaza, Civic Centre Road Havant, Hampshire PO9 2AX Tel: 023 9244 6019

<p><b>Environmental Health</b></p> <p>Health and Safety</p> <p><b>Health and Safety Executive</b></p>	<p>Environmental Health Havant Borough Council Public Service Plaza, Civic Centre Road Havant, Hampshire PO9 2AX Tel: 023 9244 6654 EHCommercialShared Mailbox@havant.gov.uk</p> <p>Priestley House Priestley Road, Basingstoke RG24 9MW Tel:: 0300 0031 647 hse.licensing@hse.gsi.gov.uk</p>
<p><b>Child Protection</b></p>	<p>The Safeguarding Unit Clarendon House Monarch Way Winchester Hampshire SO22 5PW Tel: 0300 555 1375 child.protection@hants.gov.uk</p>
<p><b>Trading Standards</b></p>	<p>Hampshire Trading Standards Montgomery House Monarch Way Winchester Hampshire SO22 5PW Tel: 01962 833620 liquor.licensing@hants.gov.uk</p>
<p><b>Public Health in Hampshire</b></p>	<p>Public Health Team Hampshire County Council WinchesterHampshire SO23 8TG public.health@hants.gov.uk</p>
<p><b>Security Industry Authority</b></p>	<p>PO Box 1293, Liverpool L69 1AX Tel: 0844 892 1025 www.sia.homeoffice.gov.uk</p>
<p><b>Disclosure and Barring Service</b></p>	<p>PO Box 3961, Royal Wooton SN4 4HF Information Line: 03000 200 190 www.gov.uk/dbs</p>
<p><b>The Performing Rights Society</b></p>	<p>2 Pancras Square, London N1C 4AG Telephone: 020 7580 5544 www.prsformusic.com</p>
<p><b>British Beer &amp; Pub Association</b></p>	<p>Ground Floor, Brewers Hall, Aldermanbury Square, London EC2V 7HR</p>

	Telephone: 020 7627 9191 www.beerandpub.com
<b>The Portman Group</b>	4 <sup>th</sup> Floor, 20 Conduit Street, London W1S 2XW Telephone: 020 7290 1460 www.portman-group.org.uk
<b>British Institute of Innkeeping</b>	Infor House, 1 Lakeside Road, Farnborough GU14 6XP Telephone: 01276 684449 www.bii.org

## APPENDIX 3

### *Customer & Equality Impact Assessment*

*Once you have agreed the scope of this assessment within your team, Please use this template inline with the CEIA Guidance notes.*

Use the links to understand more about Equality issues locally and ensure you take any opportunity possible to eliminate discrimination, advance equality of opportunity and foster good relations between those with a protected characteristic and those who do not share it within your assessment. The HBC Equality Profile can be viewed at <http://www.havant.gov.uk/planning-policy-design/diversity-profile-and-2011-census-outcomes>

#### SECTION 1 – Policy impact details

<b>1. Responsible Officer (author)</b>	Service Manager - Environmental Health
<b>2. Is this assessment for EHDC or HBC or joint?</b>	HBC
<b>3. Name and brief description of the service/policy/function to be assessed</b>	Licensing Policy under Section 5 of the Licensing Act 2003 Sets out HBC's policy in respect of its licensing functions for the next 5 years.
<b>4. Objectives of the service/policy to be assessed</b>	Sets out the policy on how HBC will promote the licensing objectives in respect of its licensing functions under the Act i.e. issue of licences for the sale of alcohol, provision of entertainment and late night refreshment.
<b>5. Scope of this assessment</b>	Functions under the Licensing Act 2003 only: The Act sets out four licensing objectives which must be taken into account when a local authority carries out its functions. They are: <ol style="list-style-type: none"> <li>1. the prevention of crime and disorder,</li> <li>2. public safety,</li> <li>3. prevention of public nuisance, and</li> <li>4. the protection of children from harm</li> </ol>
<b>6. Has Section 2 been attached?</b>	Yes
<b>7. Have you considered any complaints data?</b>	No complaints received in last 12 months concerning licensing service

<b>8. Have you undertaken any consultation or engagement?</b>	Yes, consultation is taking place with the statutory consultees identified in the 2003 Act. Consultation is also taking place with Borough Councillors and EHDC Licensing Team.
<b>9. Consultation/engagement outcomes</b>	Awaited
<b>10. From section 2 and the above answers are there concerns that the policy could have a differential (either positive or negative) impact?</b>	There are no concerns about the policy having a differential impact
<b>11. Do you need to seek more information to make a more informed decision? (Benchmarking with other LA's or focus groups etc)?</b>	No
<b>12. Reasons for any impact and any changes considered to the Policy/Service</b>	<p>The flexibility provided by Licensing Act 2003 has been viewed by some as a potential vehicle for increased alcohol consumption with the accompanying health implications. This may impact on particular groups of our society such as young people.</p> <p>The licensing provisions were designed to have a positive impact on most groups in our society, namely to:</p> <ul style="list-style-type: none"> <li>• provide improved regulation for businesses and greater choice for consumers.</li> <li>• reduce alcohol related crime and disorder, under-age drinking, public nuisance and anti-social behaviour.</li> <li>• encourage a European café style culture.</li> <li>• encourage live music and cultural events in the wider community.</li> </ul>
<b>13. Are there opportunities to better promote service/policy inclusion?</b>	The statutory consultation process goes a considerable way to promote better policy inclusion. During this review of licensing policy we are working with our partners at EHDC to encourage consistency in decision making across a wider area.

<p><b>14. Assessment outcomes and improvement plan</b></p>	<p>Any individual has the right to apply for a licence, make representations about an application or to apply for a review of licence. Each will be considered on its own merits and according to statutory requirements of the Licensing Act 2003.</p> <p>Staff are trained in equality and diversity and are aware of their responsibilities to apply consistency and fairness and to avoid making prejudgements when arriving at their decisions.</p> <p>Licensing Committee members continue to receive training on the application and the context of the licensing act including equal opportunities issues.</p>
<p><b>15. Monitoring timetable of this report and the improvement plan</b></p>	<p>Review every 5 years.</p>
<p><b>16. Which action plan will these actions be added to and who is responsible for that plan?</b></p>	<p>The Licensing Committee retain responsibility for this policy.</p>
<p>Please ensure that you have provided as much evidence as possible to support the responses you have given.</p>	
<p>Additional Comments</p>	
<p><b>Signed: H Smith</b></p>	<p><i>(Completing Officer who is responsible)</i></p>
<p><b>Signed: A Pritchard</b></p>	<p><i>(Manager with overall responsibility)</i></p>
<p><b>Signed: H Newbury</b></p>	<p><i>(Critical Friend, from another service)</i></p>
<p><b>Date: 4.1.16</b></p> <p><i>(please date the sign off and send to the Corporate Equality Group via <a href="mailto:caren.ransom@east.hants.gov.uk">caren.ransom@east.hants.gov.uk</a> or <a href="mailto:caren.ransom@havant.gov.uk">caren.ransom@havant.gov.uk</a> for quality control)</i></p>	



SECTION 2 - Screening Template

ISSUE	GROUP	IMPACTS				REASONING & EVIDENCE
		+ve	-ve	?	No	
<b>GENDER</b>	Men	√				Please see paragraph 12 above where impacts are identified
	Women	√				
<b>GENDER REASSIGNMENT</b>	Transsexual / Transgender	√				
<b>PREGNANCY &amp; MATERNITY</b>	Pregnancy & Maternity			√		
<b>AGE</b> (You may alter age ranges if appropriate)	Over 80			√		
	Over 65			√		
	22-64	√				
	16 to 21	√				
	Under 16	√				
<b>RACE</b> (You may need more detail here e.g. a specific ethnic group)	Asian or Asian British People	√				
	Black or Black British People	√				
	Chinese or Chinese British People	√				
	Gypsies/Travellers			√		
	Irish People	√				
	Mixed Race People	√				
	People from other minority ethnic groups	√				
	White British People	√				
	White European or Other People	√				
<b>DISABILITY &amp; HEALTH</b> (You may need more detail here e.g. type of sensory impairment).	Learning Disability			√		
	Long-Term Health Problem			√		
	Mental Illness			√		
	Physical Impairment			√		
	Sensory Impairment			√		
<b>SEXUALITY</b>	Bisexuals	√				
	Gay Men	√				
	Heterosexual	√				
	Lesbians	√				
<b>RELIGION &amp; BELIEF</b>	Atheist, Agnostic or Other belief	√				
	Faith Groups	√				
<b>OTHER</b> (You may add additional groups here).	Caring Responsibilities			√		
	Living in rural area	√				
	Low Income			√		
	Marital Status			√		

ISSUE	GROUP	IMPACTS				REASONING & EVIDENCE
		+ve	-ve	?	No	
	On Benefits/unemployed			√		
	Poor Literacy &/or Numeracy			√		

Section 182 Guidance extract re Safe and Permitted capacities.

### Safe capacities

2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

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