

South Hams District Council

STATEMENT OF PRINCIPLES (Licensing Act 2003) CONSULTATION RESPONSE

NAME OR ORGANISATION	COMMENTS	APPRAISAL	SUGGESTED AMENDMENTS
Mr Peter Callis	"It would be good if the embankment in Dartmouth was licensed for drinking so that it had a more Mediterranean feel and the pubs and clubs could set up tables there."	<p>The consumption of alcohol is not in itself a licensable activity, only the sale of alcohol.</p> <p>In 2011 the Council agreed to extend the Designated Public Places Order (DPPO) in Dartmouth to cover the South Embankment, as well as most of the town centre. Although this does not prevent someone from consuming alcohol, it does make it an offence for someone to continue consuming alcohol in this area when asked to cease by a police officer.</p> <p>Should nearby premises wish to use the South Embankment as an area for their customers to consume alcohol as part of their licensed premises, this would supersede the DPPO. Permission would need to be sought from the landowner (SHDC) to use the South Embankment and variations made to individual premises licences.</p> <p>This is not an issue for the Licensing Policy.</p>	No amendment to policy required.
Mr Anthony Croke, Salcombe	"A very worrying draft which is biased towards an every increasing bias towards ever greater	The Live Music Act 2012, Licensing Act 2003 (Descriptions of Entertainment)(Amendment)	

	<p>deregulation and its associated potential for public nuisance.</p> <p>The draft appears to perpetuate the existing bias in favour of the licensee. Nuisance and disturbance to neighbours is inadequately documented and fails to provide a mechanism to advise those who may be affected by changes to the licensing of premises. The policy should include provision for neighbours to be notified about proposed changes to alcohol licences in order that they are able to make a representation. My personal experience of the existing policy is that, even though the premises next door were blatantly in breach of their licence conditions, an application was made to extend the scope of the licence in a residential area and I was not informed. I was, therefore, unable to make a representation. I am told that a small notice was displayed but it was most certainly not displayed in such a manner that those affected were likely to see the notice – as would have been the case for a planning application. To be told by the Licensing Authority that it was surprised that I had not objected says it all. The Licensing Authority must be, and must be seen to be, unbiased.</p> <p>Entertainment, particularly live music, is extremely intrusive. It is entirely inappropriate for the Licensing Policy to advocate the encouragement of entertainment. Rather than encourage live entertainment etc, it should be clear that, whilst its benefits to the local community will be taken into account, the policy is to ensure that the potential nuisance to neighbouring residential properties will have a significant bearing on the application.”</p>	<p>Order 2013 and The Legislative Reform (Entertainment Licensing) Order 2014 have all contributed to a lean towards de-regulation of certain entertainment activities which were previously regulated by the Act. Both live and recorded music at premises licensed to sell alcohol to consume on the premises no longer require to be licensed between the hours of 8am and 11pm. This is not something that can be superseded or changed by the licensing policy.</p> <p>4.5.4 of the policy gives details about this re-regulation: “The legal duty on licence holders to promote the licensing objectives remains. A Responsible Authority or any person may apply for a review of a premises licence where it can be demonstrated that live music provided under the provisions of the Live Music Act undermines any of the licensing objectives.”</p> <p>In relation to the minor variation application referred to in the response, this was advertised correctly according to regulations. As has been stated, the Licensing Authority must be and must be seen to be unbiased and is therefore unable to ‘encourage’ representations by going over and above these requirements.</p> <p>As per section 9 of the licensing policy, any complaints received relating to licensed premises will be investigated and action taken as appropriate.</p>	<p>No amendment to policy required.</p>
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<p>Ivybridge Town Council</p>	<p>“Ivybridge Town Council considered the draft policy and just wanted to ask that the consultees be extended to include ourselves, particularly in the light of our recent experience with Endsleigh. Fortunately one of our ward members advised us on this occasion but otherwise we wouldn’t have known, yet our response was probably the most relevant as the police seemed not to understand the issues which could arise as they wouldn’t have been aware of the planning policy and the potential for changes which that could bring with a very open ended licence.</p> <p>In respect of consultations, this council would wish to see town/parish councils included in an extended list of potential consultees. This would refer to the ‘relevant parish/town council’ eg Endsleigh is not in our parish but clearly has a significant impact or the onus has to be on the Ward Councillors making contact. However, it would be better for the onus to be on officers in case of holidays or other issues for the elected Ward Member.”</p>	<p>This is an operational matter, not a policy matter.</p> <p>All current applications are advertised on our website in accordance with regulations, as well as all District Councillors being notified of every application by email. This notification is not a requirement, but has been undertaken by licensing staff to keep Members informed of applications in their ward. It has been felt that these individuals are in the best position to disseminate information to parish/town councils or their constituents as they feel appropriate.</p> <p>In addition, legislation requires all applications to be advertised in a local newspaper and on a blue notice displayed at the premises for 28 consecutive days. Compliance with these requirements are checked by licensing staff during the consultation period.</p>	<p>No amendment to policy required.</p>
<p>Mr Adrian Masters, Hope Cove</p>	<p>“I write to comment on licensing and its effect on residential property.</p> <p>Where a licence exists for consumption of alcohol and music performance or broadcast, due regard should be given to neighbouring property. Excessive noise at night is disturbing and stressful, I would like to know who monitors the Licensees? After all, a charge for licences is collected by SHDC and I would expect a service</p>	<p>Section 9 of the policy details the Licensing Authority’s proportional approach to enforcement.</p> <p>There is not the resource available for general night-time monitoring of licensed premises. Both Environmental Health and Licensing investigate complaints relating to noise from licensed premises when received and take action as appropriate.</p>	<p>No amendment to policy required.</p>

	for The Licensees and wider community in return.”		
South Huish Parish Council	“This was discussed at the recent Parish Council meeting and the Council feel that there should be more emphasis on the ruling concerning refusal to serve customers who were obviously very drunk. The right of a publican to refuse to serve more alcohol to anyone who was already drunk is, apparently, from Councillors’ experience, not always followed through causing serious issues. Council expressed concern over how the policy could be enforced.”	Selling alcohol to a person who is ‘drunk’ is against the law. Should we receive information that this has occurred we would liaise with the Police and take action as appropriate – see section 9 on Enforcement. Every premises licensed to sell alcohol must have a designated premises supervisor (DPS) who must have a personal licence. The DPS is responsible for authorising alcohol sales and for ensuring their staff are trained to do so responsibly. If a complaint is received regarding sale to ‘drunk’ persons this would be taken up with the DPS in the first instance.	No amendment to policy required.
Devon and Cornwall Police	Confirmation that no amendments required.	In support of the policy.	No amendment to policy required.
Gill Claydon on behalf of Stokenham Parish Council and Salcombe Town Council	“Both councils felt that the changes being made were updating and compliance and therefore no need for any further comment.”	In support of the policy.	No amendment to policy required.
Fleur Barr, South Hams District Council and West Devon Borough Council BBfA lead Specialist	“The Devon and Somerset Better Business for All (BBfA) Partnership are encouraging all members to incorporate the BBfA principles within internal regulatory Policy and Procedures. I have asked some members of the group for some examples, however I have put together something in the interim.	The Statement of Licensing Policy is relevant to many businesses across the District. It would therefore be appropriate to include reference to the Council’s commitment to the BBfA Partnership’s principles when dealing with businesses.	Insert at 1.5 wording recommended by the Devon and Somerset BBfA: 1.1 South Hams District Council are fully committed to the Devon and Somerset Better Business for All (BBfA) Regulatory Services Partnership, which is endorsed by the Better Regulatory Delivery Office (BRDO), part of

	<p>I note many new Policies and Procedures are being produced now across the authority with different Regulators. Our Partnership is committed to embedding the BBfA principles now into all internal regulators Policy and Procedures. I hope if you are reviewing any you will consider the attached document please, or discuss the item further for consideration.</p> <p>Better Business for All (BBfA) is not a short term project but a better way of working, which is mutually beneficial in times of austerity and beyond. The partnership is passionate about making a cultural change between businesses and regulators, which encourages the building of trust to establish good working relationships.”</p>		<p>the Department for Business, Innovation and Skills (BIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, whilst maintaining public protection. This document will ensure that the Regulator will work in accordance with the BBfA principles. In doing so the Authority will create an environment and culture which will support our local businesses by making the activity that is being regulated easy to access, simple and clear to understand, whilst ensuring public protection.</p> <p>1.2 The Council will listen to business needs and act in an open and transparent way to help shape the way support is provided, this will be done following business consultations and throughout service use.</p> <p>1.3 Better Business for All is business-focused, using business-led improvements to create better regulation, support business growth and create a level playing field for businesses. In order to achieve this the Policy will be implemented in a consistent manner with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.</p>
<p>David Sexton, Environmental Health Officer, South Hams</p>	<p>“The comments I have is that under public nuisance provisions perhaps there should be reference to noise management plans</p>	<p>There is a separate document available for applicants with a more in depth list of factors and potential conditions to consider under ‘prevention of public nuisance’. However,</p>	<p>Add under Prevention of Public Nuisance as a bullet point under 3.6.2: Noise management plan provided (where appropriate).</p>

<p>District Council and West Devon Borough Council</p>	<p>Under TEN's can a noise management plan be required for any live music after 11pm? I know there is no provision in the regs but can it be council policy that they provide one else EH are very likely to object, or I do need to suggest that via an EH policy?"</p>	<p>noise management plans are a key consideration and could be added to the short bullet point list at 3.6.2.</p> <p>As the TEN process is meant to be a 'light-touch' process for one-off occasions it would be seen to be unreasonable to demand a noise management plan for any live music after 11pm. However, it would be useful to include reference noise management plans as a recommended consideration to avoid potential objections from Environmental Health when events involving amplified music (not just live music) finish after 11pm.</p>	<p>an extra sentence in 14.8 (pg32-33): <i>When giving a TEN, the premises user should consider the promotion of the four licensing objectives. Organisers are strongly advised to contact relevant persons for advice at the earliest opportunity when planning events. Planning at an early stage may well minimise or avoid potential objections. Where amplified music is to be provided after 11pm, it is recommended that organisers provide a noise management plan with their TEN, as this is likely to be required by Environmental Health to avoid a representation.</i></p>
<p>Tracy Rowe on behalf of Dartmouth Town Council</p>	<p>"Applications or re-applications from take-away establishments should include provision of additional waste receptacles and payment should be made for the emptying of these.</p> <p>Drinking on the streets should be limited, with outside tables only allowed for the consumption of alcohol with food.</p> <p>Noise levels should be monitored to prevent nuisance.</p> <p>Large scale public events should be monitored with large deposits (£1,000+) taken against possible damage caused."</p>	<p>Section 3.6.3 states that "the Licensing Authority will normally expect premises selling hot food or hot drink that is taken off the premises for consumption, or the distribution of flyers or other promotional literature, to make adequate arrangements for the disposal of litter in the vicinity, which is discarded as a result." The Licensing Authority would be unable to demand that payment is made towards the emptying of bins as part of this policy.</p> <p>See comments on page one above relating to the Designated Public Places Order (DPPO) in Dartmouth. If someone applied to vary their premises licence to include an outside drinking area, representations may be made in relation to the licensing objectives and restrictions on consumption of alcohol with food may be included if appropriate. Applications are judged on a case by case</p>	<p>No amendment to policy required.</p>

		<p>basis in relation to the licensing objectives.</p> <p>There is not the resource available for general noise monitoring of licensed premises. Both Environmental Health and Licensing investigate complaints relating to noise from licensed premises when received and take action as appropriate.</p> <p>In relation to deposits for large scale public events, the relevant landowners would be best placed to arrange for this in appropriate situations. This is not a matter for the licensing policy and cannot be enforced by the Licensing Authority.</p>	
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