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# Statement of Licensing Policy 2015 to 2020

LICENSING ACT 2003

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Council of the  
ISLES OF SCILLY

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Licensing

December 2014

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Approved by Council 9.12.14

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**LICENSING ACT 2003**

**COUNCIL OF THE ISLES OF SCILLY**

**STATEMENT OF LICENSING POLICY 2015 to 2020**

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### Reviews and Amendments

Version	Amendment	Date
Version 1	To Licensing Committee	16 October 2014
Version 1.1	To public for consultations	16 October 2014
Version 2	Revised in light of consultation	17 November 2014

## **1 Local Summary**

- 1.1** The Isles of Scilly are made up of over 200 low-lying granite islands and rocks, five of which are inhabited, located in the Atlantic, some 28 miles South West from Land's End. The Islands are reached by ship from Penzance or plane from Lands End or Newquay. The distance and cost of travel mean that the Islands are protected from many outside influences providing an exceptional setting of peace and tranquillity for many activities.
- 1.2** The unique environment is a factor which is relevant to many aspects of Island life and is central to the work of the Council. There are 27 Sites of Specific Scientific Interest and 236 Scheduled Ancient Monuments (incorporating 909 separate items). As well as this there are 128 listed buildings (4 Grade 1 and 8 Grade 2\*) a remarkable distribution within a 16 km squared area. The waters around the Islands, down to a 50m contour have been established as a non-statutory Marine Park. The Islands are designated as an Area of Outstanding Natural Beauty and a plan has been developed that sets out a vision for the management of this unique environment. The Islands are also designated as a Conservation Area and as Heritage Coast. The Islands contain a Special Area of Conservation (EU Habitats Directive) and Special Protection Area (EU Birds Directive) which means that the Islands are a EU Natura 200 site.
- 1.3** The unique status of the Islands is further recognised by the fact that the Council of the Isles of Scilly is one of the very few licensing authorities to be identified by name in section 3 of the Licensing Act 2003.
- 1.4** The tourism industry is a major contributor to the economy of the Isles of Scilly. It attracts tourists and local residents, makes for a vibrant community and is a major employer. Tourism makes a particularly significant contribution to the Isles economy accounting for 85% of employment.
- 1.5** The Council has a duty to protect both the amenity and the prosperity of its residential population. That population doubles in the summer months with tourists, who are, in the main, families with young children and retired people – the very segments of society who would perhaps be deterred by anti-social behaviour and/or nuisance. The peace and tranquillity offered by many providers of accommodation are very attractive to these groups and must be maintained.
- 1.6** All commercial operators of premises have an equally legitimate expectation of an environment that is attractive and sustainable for their businesses
- 1.7** Low background ambient noise levels in the Islands mean that what may be considered a relatively quiet activity elsewhere in the UK will have a major impact on the neighbouring properties over quite a wide area. Residents and visitors living or staying close to establishments supplying alcohol, providing regulated entertainment or late night refreshment are vulnerable; any licensing policy must consider the needs of these people.
- 1.8** Some local residents may be affected by an increase in the concentration of entertainment uses and experience longer hours of operation. It is the duty of the licence operator to ensure that their licensable activity does not unduly affect these residents and that the licensing objectives are met.

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## 2 Introduction and Definitions

The Licensing Act 2003 makes provision for the regulation of the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment. It contains the relevant law, provides the machinery for making and processing applications and sets out details of offences relating to alcohol.

The Act designates local authorities, including the Council of the Isles of Scilly, as licensing authorities responsible for issuing and reviewing licences for premises and club premises, together with personal licences and temporary event notices.

Licensing Authorities must carry out their functions with a view to promoting the 4 licensing objectives. These are:

- i        **The prevention of crime and disorder,**
- ii       **Public safety,**
- iii      **The prevention of public nuisance, and**
- iv      **The protection of children from harm.**

**2.1 Definitions:** The following are definitions of terms used within the Act and this policy and are provided to aid the reader's understanding of the Licensing Act 2003.

**2.2 Appellant**

A person appealing to the Magistrates Court against a licensing authority's decision

**2.3 Club Premises Certificate (section 60)**

Club premises certificates are authorizations needed by clubs to carry on certain activities (e.g. selling alcohol to members and their guests). They may be granted to clubs which meet the special requirements set out in Part 4 of the 2003 Act (regarding membership, that the club is established and conducted in good faith and special conditions where the club supplies alcohol to its members). These commonly include ex-services clubs such as the Royal British Legion, Conservative, Labour and Liberal clubs, working men's clubs, miners' welfare institutions and sports and social clubs. The application process is similar to that for a premises licence. For example, there are similar provisions about advertising applications and making representations. However, a key difference is that, unlike a premises licence, there is no requirement to identify a designated premises supervisor to allow the supply of alcohol under a club premises certificate.

## **2.4 Designated Premises Supervisor (section 15)**

The Designated Premises Supervisor (DPS) is a personal licence holder specified in the premises licence. All premises licensed to sell alcohol will have an identified “personal licence holder”, known as the “DPS”. The purpose of the DPS is to ensure there is always one specified individual who can be identified as a person in a position of authority at a premises.

## **2.5 Interested Parties (sections 13 and 69)**

For any particular premises, interested parties are bodies or individuals who are entitled to make representations to licensing authorities on applications for the grant, variation or review of premises licences or club premises certificate. Interested parties can also ask for a review of a premises licence or club premises certificate. “Interested party” means:

- A person living in the vicinity of the premises,
- A body representing persons who live in that vicinity,
- A person involved in a business in the vicinity of the premises,
- A body representing persons involved in these businesses, and
- Elected members of the Licensing Authority.

## **2.6 In the vicinity**

Whether somebody lives or works “in the vicinity” of a premises is a matter that will be decided by the relevant licensing authority (and if there are disputes, by the courts). The word has no particular technical meaning and in licensing matters should be interpreted as an ordinary English word and in a common sense fashion. In doing this, licensing authorities might take into account whether the party is likely to be affected by any disorder or disturbance occurring or potentially occurring at those premises.

## **2.7 Late night refreshment (Schedule 2)**

The provision of late night refreshment means the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11pm and 5am, or the supply of hot food or hot drink to anyone between 11pm and 5am, on or from premises to which the public has access. However, there are a number exemptions in Schedule 2 (e.g. vending machines in certain circumstances; where the hot food or hot drink is supplied free of charge; or where it is supplied by a registered charity). A number of categories of a consumer are also exempt, including residents, employees and club members.

## **2.8 Licence Premises (section 193)** A premises licence can be issued for any premises, which is defined by the Act as meaning any place and including a vehicle, vessel or moveable structure.

## **2.9 Licence Summary (section 24 and 57)** The official summary of the Premises Licence. It is required to be prominently displayed at the premises.

## **2.10 Licensable Activities (section 1)**

Licensable activities are the sale of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club, the provision of regulated entertainment and the provision of late night refreshment. If you carry on any of these activities, you are likely to need an authorisation (a premises licence, a club premises certificate or a temporary event notice).

### **2.11 Licensing Authorities (section 3)**

Licensing authorities are usually local authorities, and are responsible for licensing functions under the Licensing Act 2003. The Council of the Isles of Scilly is the licensing authority for the Isles of Scilly, by virtue of section 3(1) (h) of the Act.

### **2.12 Licensing Committee (sections 6 and 9)**

Licensing committees are appointed to carry out the functions of licensing authorities. They are generally made up of between 10-15 local authority councillors. The committees delegate a number of their functions to sub-committees and licensing authority officers.

### **2.13 Licensing Sub-Committee (sections 9 and 10)**

Full licensing committees delegate a number of their functions to one or more “licensing sub-committees”. These are made up of at least three members of the full licensing committee

### **2.14 Licensing Objectives (section 4)**

Licensing authorities must carry out their functions with a view to promoting four licensing objectives. These are:

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

**2.15** Licensing authorities must decide applications in connection with premises licences and club premises certificates on the basis of the steps it considers necessary to promote these objectives. Each objective is of equal importance.

### **2.16 Licensing Register (section 8)**

Licensing authorities are required to keep a register containing a record of all premises licences; club premises certificates and personal licences issued by it and temporary event notices received by it, as well as various other matters set out in Schedule 3 to the 2003 Act. You can inspect the register of licences issued by the Council of the Isles of Scilly at the Town Hall, without charge during normal office hours, by prior appointment.

### **2.17 Local statement of licensing policy (section 5)**

Every licensing authority will publish a “statement of licensing policy” every 5 years. This will set out the general approach the licensing authority will take when making licensing decisions.

### **2.18 Operating Schedule (sections 17 and 71)**

The operating schedule is the part of the application form for a premises licence or club premises certificate, where the applicant sets out various details about how they propose to operate the premises when carrying on licensable activities. Among other things, it must include a description of the proposed licensable activities; proposed opening hours and times for licensable activities; proposed duration of the licence or certificate; and a statement of the steps the applicant proposes to take to promote the licensing objectives (for example, arrangements for door security to prevent crime and



disorder). The significance of the operating schedule is that if the application for the premises licence or club premises certificate is granted, it will be incorporated into the licence or certificate itself and will set out the permitted activities and the limitations on them.

### **2.19 Permitted Temporary Activities (Part 5 of the 2003 Act and section 98)**

These are small-scale, temporary events of which licensable activities form part, that are allowed to take place without the need for a premises licence or club premises certificate. The event organiser (who must be over 18 years) has to notify the licensing authority, by giving a “temporary event notice” (TEN). There are certain limitations imposed on this system. These include:

- No more than 499 people (including staff/organisers) attending at any one time,
- An individual is limited to giving 5 TENs in a calendar year, unless they are a personal licence holder for the sale of alcohol, in which case they can give 50,
- A limit of 12 temporary event notices may be given in respect of any particular premises in a calendar year,
- An event may last for no more than 168 hours,
- The maximum aggregate duration of the periods covered by temporary event notices at any individual premises of 21 days, and
- The Police and Environmental Health must be notified and they are the only permitted objectors.

There are two types of TENs:

- a standard TEN, notice of which is given no later than 10 working days before the event to which it relates
- a late TEN, notice of which is given not before 9 and not later than 5 working days before the event

If you have a personal licence, you can give 50 TENs (made up of standard and late TENs) a year. If you don't have a personal licence you can only give 5 (made up of standard and late TENs).

If you have a personal licence, you can give 10 late TENs a year. If you don't have a personal licence you can only give 2 late TENs.

### **2.20 Personal Licence (Part 6 of the 2003 Act, section 111)**

A personal Licence authorises an individual to supply alcohol, or authorise the supply of alcohol in accordance with a premises licence or a temporary event notice. Not everybody that works in any licensed premises will need to hold a personal licence; however, all premises licensed to sell alcohol will have an identified personal licence holder, known as the “designated premises supervisor”. In addition, all supplies of alcohol under a premises licence must be made or authorised by a person that holds a personal licence.

### **2.21 Premises licence (section 11)**

A premises licence authorises the use of premises for “licensable activities”.

## **2.22 Premises user (section 100)**

This is the individual that gives the “temporary event notice” to the licensing authority in respect of “permitted temporary activities”.

## **2.23 Provisional statements (section 29)**

This “statement” can be applied for where premises are being, or about to be constructed for licensable activities. This will give the owner some reassurance about whether a licence would be granted if the premises were built as set out in the application for the provisional statement. However, a provisional statement is not an authorisation, so the relevant permission must still be obtained in order to carry on licensable activities.

## **2.24 Qualifying clubs (section 61)**

Qualifying clubs are those clubs which meet the special requirements set out in Part 4 of the 2003 Act (regarding membership, that the club is established and conducted in good faith and special conditions where the club supplies alcohol to its members). These are clubs where members join together for a particular social, sporting or political purpose and then combine to purchase alcohol in bulk for its members (see examples under “club premises certificate” above). Such clubs carry on activities from premises to which public access is restricted and alcohol is supplied other than for profit.

## **2.25 Regulated Entertainment (Schedule 1)**

Generally speaking, the provision of regulated entertainment means the commercial or public provision of entertainment facilities or the commercial or public provision of any of the following sorts of entertainment:

- The performance of a play,
- An exhibition of a film,
- An indoor sporting event,
- Boxing or wrestling entertainment,
- A performance of live music,
- Any playing of recorded music,
- A performance of dance,
- Entertainment of a similar description to live music, recorded music or dance,
- Facilities for allowing people to make music,
- Facilities for allowing people to dance, and
- Facilities for allowing entertainment of a similar description to making music or dancing.

**2.26** Schedule 1 contains further specific rules about where the definition of “regulated entertainment” applies. These rules concern the intended audience and whether the regulated entertainment is for profit.

## **2.27 (Relevant) Representations (sections 18 and 72)**

These are written representations (usually of complaint) about the likely effect of the grant of an application for, or variation to a premises licence or club premises certificate, on the promotion of the licensing objectives. “Interested parties” such as local residents and “responsible authorities” such as environmental health can make representations. The term “relevant” relates to representations made by interested parties, and refers to representations that are considered “valid” by the licensing authority. The

representations must be made within 28 days after the day on which the application is given and must be made seriously (i.e. must not be frivolous or vexatious). Representations can also be made in relation to an application for the review of the premises licence or club premises certificate.

**2.28** Following receipt of a certificate and review application, Licensing Authorities must hold a hearing within 48 hours to determine whether to take any 'interim steps' - including removing alcohol sales from the scope of the licence; modifying the licence conditions; removing the premises supervisor; or suspending the licence. These interim steps may take immediate effect, or may be delayed.

**2.29** Following this interim review, the Licensing Authority is obliged to proceed to a full licence review under section 53 of the Licensing Act 2003. At the hearing, the Licensing Authority must take any steps as it considers necessary for the promotion of the licensing objectives, providing that any interim steps that are no longer needed cease.

**2.30 Responsible Authorities (sections 13 and 69)**

Responsible authorities include public bodies that must be notified of applications and are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. Any representations must be about the likely effect of granting the application on the promotion of the licensing objectives. Responsible authorities include the following for the area in which the premises are situated:

- The chief officer of police,
- The fire authority,
- The health and safety authority,
- The area in which the premises are situated,
- The environmental health authority,
- The body recognised as being responsible for protection of children from harm,
- Inspectors of Weights and Measures (trading standards officers), and
- And in respect of vessels only - i) The Environment Agency; ii) The British Waterways Board; iii) The Maritime and Coastguard Agency and if different from these, iv) the relevant navigation authority / authorities for the place(s) where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities.

Details of the Responsible Authorities for the Isles of Scilly are shown at Appendix B

**2.31 Temporary Event Notice (section 100)** (See 'Permitted Temporary Events above).

This is the notice that organisers of small-scale temporary events must give to the licensing authority and the police to make it a "permitted temporary activity". This notice must be in a prescribed form, which is available on the Council websites.

### 3 Preparing and Submitting Applications

- 3.1 Premises Licences and Club Premises Certificates:** The procedures and legal requirements for premises and club premises are largely similar but there are differences, and further information and advice on specific circumstances may be obtained from the Licensing Authority.
- 3.2** Applicants for a Premises Licence are required to assess the proposed operation of the premises and include in the operating schedule identified measures which they consider will **promote the licensing objectives**. Applications which do not adequately address the licensing objectives are more likely to be subject to representations by responsible authorities and / or interested parties, and in such cases, it will fall to the Licensing Authority to determine the application taking such steps as it considers necessary, reasonable and proportionate to promote the licensing objectives.
- 3.3 Operating Schedules:** When submitting an application, the operating schedule includes a description of the style of the premises operation. The Licensing Authority when issuing a premises licence may apply conditions **which are consistent** with the operating schedule, and this may include conditions which will restrict the premises to the style of operation set out in the application. This is necessary to ensure that applicants do not significantly alter the style of operation without making an application to the Licensing Authority which will then be assessed against the licensing objectives as required by the Act.
- 3.4** Different premises styles and locations will inevitably impact differently on the licensing objectives and will require different measures to be put in place according to the individual circumstances. For example a town centre bar opening after 11pm with entertainment is likely to require a robust operating schedule including issues such as occupancy checks, searching procedures, provision of security staff, CCTV systems etc.
- 3.5** A large part of the area of Hugh Town is covered by the Licensing Authority's Cumulative Impact Policy. Applicants for new licences and variations of premises in this area **must** have regard to the special considerations which will apply as set out in this policy.
- 3.6 Outside areas** – It is important to ensure that the application accurately reflects the intended operation of the premises. The application must be accompanied by a plan of the premises which shows certain information as required by the Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005. This includes marking the areas of the premises which are proposed to be used for each licensable activity. It is important to note that although consumption of alcohol is not itself a licensable activity, if the plan does not show outside areas (e.g. beer gardens, smoking areas or similar) then any premises which authorises the sale of alcohol 'for consumption ON the premises' only, as opposed to 'on and off the premises' would not authorise the use of such areas. In other words, the plan which is submitted as part of the application defines the 'premises' for the purpose of the licence.
- 3.7 Adult activities** – the application form requires that details are given of any proposed activities which may give rise to concerns in relation to 'the protection of children from harm'. This would include any events involving nudity or semi-nudity, as well as other activities such as provocative dancing and the like. Where this section contains no information, it will be assumed that there are no intentions to allow such activities and the Licensing Authority will impose a condition to that effect.

- 3.8** Applicants should also consider providing information to support the operating schedule. For example where it is considered that no additional measures are necessary to promote the prevention of public nuisance due to the remoteness of the premises in question, it would be useful and informative to the Responsible Authorities to include this 'background information' to negate concerns that proposed activities may generate noise in the vicinity of the premises.
- 3.9** Applicants are required to provide certain information as part of the application and to advertise an application in accordance with the regulations. Applicants are encouraged to provide a **description of the nature of the premises operation that will inform responsible authorities and interested parties and will assist them in assessing the likely impact on the licensing objectives.**
- 3.10** **Drinks promotions** - The Licensing Authority supports measures to promote sensible drinking, including a commitment not to participate in drink promotions / happy hours etc. which encourage excessive drinking. Premises licences are likely to be subject to review where drink promotions have led to any of the licensing objectives being undermined. Mandatory Conditions are in force from April 2010 regarding drinks promotions. (See Appendix F)
- 3.11** **Fire:** All licensed premises must carry out a Fire Risk Assessment and record the significant findings of the fire risk assessment under article 9 of the Regulatory Reform (Fire Safety) Order 2005. Failure to carry out a fire risk assessment may result in appropriate enforcement action being taken by the Fire & Rescue Authority and / or an application by the Fire & Rescue Authority to the Licensing Authority for a review of the premises licence under Section 51 of the Licensing Act 2003.
- 3.12** **Minimum Age:** Applicants must be aware of the strict requirements imposed by the Licensing Act in relation to the sale of alcohol to persons under 18. Mandatory conditions (see appendix F) apply to all licences.
- 3.13** **Capacity** – conditions will be considered in relation to maximum occupancy figures where it is considered necessary either to promote the public safety or crime and disorder objective. In such cases, the occupancy will reflect a level which is considered manageable given the representations received and/or the evidence provided.
- 3.14** **Licensing hours** Operating schedules should include the proposed hours for each of the proposed licensable activities together with the hours when the premises will be open to the public generally. Any seasonal differences should also be included, including any proposed extended hours for special occasions (e.g. bank holidays, New Years Eve etc.).
- 3.15** Unless there are good reasons for restricting hours of operation for the sale of alcohol, shops, stores and supermarkets that sell alcohol will be permitted to do so during the times that they would ordinarily sell other goods.
- 3.16** **Event Planning** In relation to the use of Council owned land in the Islands, the General Purposes Committee determine whether or not consent will be given for the use of the land. As that committee meets only 3 or 4 times per year, early event planning and application is advisable.

- 3.17** Advice and guidance is available to event organisers in relation to whether or not a premises licence or a temporary event notice is needed. Advice on licensing requirements should always be obtained from the Licensing Authority at an early stage in planning any event.
- 3.18** The Licensing Authority recommends applicants, licensees and event planners to communicate with people living and working in the vicinity of the premises / land proposed to be used for licensable activities. This may enable potential / actual areas of concern to be identified and addressed without the need for direct involvement by the Licensing Authority.
- 3.19** **Designated Premises Supervisors** Any Premises Licence which authorises the sale of alcohol as a licensable activity is required to specify an individual on the Premises Licence as the Designated Premises Supervisor (DPS).
- 3.20** The Secretary of State's guidance indicates that the DPS should be the individual who is in day to day control of the premises.
- 3.21** The DPS must hold a valid Personal Licence at all times. Where this is not the case, it is an offence to sell alcohol until the Premises Licence is varied to specify a new DPS.

### **TRANSFERS**

- 3.22** Where a licence or certificate holder wishes to transfer their licence / certificate to another person, they may apply to the Licensing Authority to do so, and will need to pay the appropriate fee.
- 3.23** In these circumstances, the transfer will be approved by the Licensing Authority unless the Chief Officer of Police objects to the transfer. The objection must set out the basis upon which the police believe that if the transfer was permitted, harm would be caused to the Licensing Objectives.
- 3.24** If an objection is received, a hearing before the Licensing Sub Committee will be arranged, and the person seeking the licence/certificate to be transferred into their name will be able to make representations regarding the police objection. The Sub Committee will then either approve or refuse the transfer application.
- 3.25** If the application is refused then the licence or certificate will revert to the person who held it prior to the transfer application. That person will then assume all such responsibilities unless and until the licence / certificate is transferred to someone else. If that person does not wish to regain those responsibilities they must contact the Licensing Authority immediately to surrender the licence / certificate, and as such they are advised to contact the Licensing Authority following the submission of the transfer application to ascertain whether any objection has been received, and when it will be determined.

## **MAJOR VARIATIONS**

- 3.26** Major Variations use a procedure similar to that of an application. Examples of where this would be necessary are –
- **The variation is to extend the duration of a licence,**
  - **The variation is to add the supply of alcohol as a licensable activity,**
  - **The variation is to authorise the supply of alcohol between 11pm and 7am,**
  - **The variation is to extend the hours during which the supply of alcohol is authorised, and**
  - **The variation is to take account of a substantial variation to the premises themselves.**
- 3.27** If a variation application involves changing the structure of the premises an amended plan must be submitted. Applicants should refer to the relevant section of this document in respect of the plan.
- 3.28** Applicants are required to send copies of their variation application to the Responsible Bodies, whose contact details can be found on the Licensing Authority's website. The application must also be advertised in accordance with the provisions of the Act and Regulations.
- 3.29** Once a complete application has been received and the notice and advertising provisions have been complied with, a statutory period of 28 days will commence during which time Responsible Bodies and interested parties may make representations to the Licensing Authority. If these representations are relevant to the Licensing Objectives (and in the case of interested parties they are not vexatious, frivolous or repetitious) then this will trigger a hearing before the Licensing Sub Committee. Parties are encouraged to mediate to attempt to resolve the issues, and if that can be done without the need for a hearing then the parties can request that the hearing is dispensed with. Otherwise, the application will be determined by the Committee having regard to the promotion of the Licensing Objectives.

## **MINOR VARIATIONS**

- 3.30** The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. (These are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm.)

The process should be used for changes such as:

- **Small changes to the structure or layout of a premises,**
- **The addition of authorisation for late night refreshment or regulated entertainment (such as live music, performance of plays or film exhibitions),**
- **Small changes to licensing hours (but see below on changes that relate to alcohol),and**
- **Revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions).**



**3.31** The Minor Variations process cannot be used to:

- **Add the retail or supply of alcohol to a licence,**
- **Extend licensing hours for the sale or supply of alcohol at any time between 11pm and 7am,**
- **Increase the amount of time on any day during which alcohol may be sold by retail or supplied,**
- **Extend the period for which the licence or certificate has effect,**
- **Transfer the licence or certificate from one premises to another, or vary substantially the premises to which it relates,**
- **Specify, in a premises licence, an individual as the premises supervisor,**
- **Add the sale by retail or supply of alcohol as an activity authorised by a licence or certificate; or**
- **Disapply the mandatory conditions relating to a designated premises supervisor (there is a separate process by which community premises can apply for this).**

**3.32 Advertising:** Under the Minor variation process, you are not required to advertise the variation in a newspaper or circular or copy it to responsible authorities. However, **you must display it on a white notice.** The notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

**3.33** On receipt and whilst considering the application, the licensing authority will consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and if they need specialist advice, and will take their views into account before reaching a decision (e.g. they may need to consult the environmental health officer on an application with possible public nuisance implications).

**3.34** You should be aware that in the case of minor variations, there **is no right to a hearing** (as for a full variation or new application), but licensing authorities must take any relevant representations into account in arriving at a decision. (Representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives).

**3.35 Full Applications :** If your application is **refused** and you **re-submit through the full variation process**, the full 28 days notification period will then apply from the date the new application is received and you should advertise the application and copy it to all responsible authorities in accordance with the regulations applicable to full variations.

#### **APPLICATIONS FROM COMMUNITY HALLS TO REMOVE MANDATORY CONDITION FOR A DPS**

**3.36** It is now possible for community, church and village halls to apply to remove the mandatory conditions in section 19(2) and (3) of the Licensing Act 2003 to (“the Act”) have a designated premises supervisor (“DPS”) who is a personal licence holder to authorise every supply of alcohol and replace it with an alternative licence condition in Section 19 under 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.



- 3.37** The types of application that can be made are as follows:
- Application to replace the requirement to have a DPS with the alternative licence condition for an existing premises licence to supply alcohol,
  - New application for a premises licence including the supply of alcohol under the alternative licence condition, and
  - Application to vary an existing premises licence to add the supply of alcohol under the alternative licence condition.
- 3.38 Who can Apply?** The application must come from a committee or board with responsibility for the management of the community premises.
- 3.39** Community premises may wish to check with the licensing authority before making an application.
- 3.40 Definition of Community Premises** In most cases, it should be self evident whether a premises is or forms part of a community premises, such as a church hall, chapel hall, village hall, parish hall, community hall or other similar building.
- 3.41 Who will be responsible for complying with the law?** As the premises licence holder, the management committee will collectively be responsible for ensuring compliance with licence conditions and the law (and may remain liable to prosecution for one of the offences in the Act) although there would not necessarily be any individual member always present at the premises.
- 3.42 Advertising:** There is no requirement to advertise an application to include the alternative licence condition.
- 3.43 Objections to an application** Only the Chief Officer of Police can object to a request for the inclusion of the alternative licence condition on the grounds of crime and disorder. The police will consider any history of incidents at an establishment in light of the actual or proposed management arrangements, including the use of appropriate hire agreements. If the Chief Officer of Police issues a notice seeking the refusal of the application to include the alternative licence condition, the licensing authority must hold a hearing in order to reach a decision on whether to grant the application.
- 3.44 Appeals:** Where the Chief Officer of Police has made relevant representations against the inclusion of the alternative licence condition, or given a notice under section 41D(6) of the Act which was not withdrawn, the Chief Officer of Police can appeal the decision of the licensing authority to allow the inclusion of the alternative licence condition.
- 3.45** Similarly, a community premises can appeal a decision by the licensing authority to refuse to include the alternative licence condition following a hearing triggered by relevant representations or by a notice given under section 41D(6). Following a review of the licence in which the mandatory conditions are reinstated, the licence holder may appeal against the decision. If the alternative licence condition is retained on review, the applicant for the review or any person who made relevant representations may appeal against that decision

## **VARIATION TO SPECIFY SIMPLE AMENDMENTS**

**3.46** Simplified procedures now exist for the following variations:

- A change of name or address,
- Specifying a new individual as the designated premises supervisor, and
- A request to be removed as a designated premises supervisor.

**3.47** Forms can be obtained from the Town Hall or downloaded from the Council's website and returned with a small fee.

**3.48** Fees are payable on all licensing applications and must be paid when the application is submitted. Applications submitted without a fee will be rejected. The level of fees is fixed by the Licensing Act. Fees paid on any application which is rejected are non refundable.

## **Policies**

The following policies must be borne in mind when preparing an application for submission to the authority. They have been written to support the reasons for grant or refusal decisions and as such care should be taken to incorporate appropriate conditions and descriptions within the application.

### **POLICY 1**

Where a hearing is necessary following police objections to an application for a Personal Licence, the Licensing Authority will only grant the application where they are satisfied that to grant the licence will not undermine the crime disorder objective.

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

### **POLICY 2**

Applicants are expected to include in their operating schedules, measures that are necessary and proportionate to promote the licensing objectives. These will include:-

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

- Minimise and control noise from staff, contractors and suppliers and their activities;
  - Minimise and control noise from vehicles associated with and providing services to the premises and their customers.
- c) Measures that make adequate provision to protect children from harm. This will include measures to ensure that children are not permitted to access age restricted products (e.g. alcohol), and are protected from exposure to inappropriate activities or material (such as adult entertainment and advertisements in relation to such entertainment). The protection of children from harm will be taken in the widest context and may therefore include issues related to morality, psychological harm, physical harm and health related issues. This could also include Disclosure and Barring checks and / or registration with the Independent Safeguarding Children Authority for staff or entertainers providing entertainment or activities for children.

### **POLICY 3**

The Licensing Authority will continue to work in partnership with responsible authorities and interested parties (including representatives of the licensed trade) to identify and establish best practice initiatives. Operators will be expected to participate in/with appropriate initiatives aimed at promoting the licensing objectives.

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

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

*addition, exacerbated by the smoke free legislation, is the need to control the behaviour and number of persons in outside areas of licensed premises such as beer gardens, and designated smoking areas or by customers in the vicinity of the premises,*

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

#### **POLICY 4**

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

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

#### **POLICY 5**

**The Licensing Authority recognises the problems associated with later opening, but provided there is a good balance with the four licensing objectives will consider applications for permanently extending hours of operation. Each application will be considered on its merits having regard to the location and the proposed operating style of the premises. Promotion of the licensing objectives will be paramount in any consideration of a licence application by the Licensing Authority. Applicants wishing to extend their hours of operation will be expected to demonstrate that the granting of the later Premises Licence is not likely to undermine the crime prevention or public nuisance objectives.**

*REASON Section 13.44 of the Guidance issued under section 182 of Licensing Act 2003 states: “The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.”*

#### **POLICY 6**

**Premises will be subject to both planned and unannounced inspections (including multi-agency inspections and test purchase inspections). Problem and ‘high risk’ premises will be subject to a higher level of scrutiny than well run, low risk premises.**

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

#### **POLICY 7**

All applications for reviews will be considered by the Licensing Authority on their merits. In determining the matter the Licensing Authority will consider:

- No action,
- Verbal warning,
- Written warning,
- Requirement for improvements,
- Imposition / modification of conditions,
- Refusal to specify an individual as Designated Premises Supervisor (DPS),
- Removal of existing DPS,
- Restriction of regulated activities / hours of operation,
- Suspension of licence, and
- Revocation of licence.

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

#### **POLICY 8**

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

- Liaising and consulting with the members of the Island Partnership Safety Advisory Group and cultural services.
- Liaising and consulting with the Planning Authority and the Highways Authority.
- Participation in partnership initiatives aimed at addressing issues around the evening and night-time economy.
- Participation and support in multi-agency exercises including during performance inspections and test purchasing.

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

#### **POLICY 9**

Applications for new Premises Licences, Club Premises Certificates or variations of these in respect of the sale and supply of alcohol for consumption on the premises made in respect of premises situated within the Cumulative Impact Zone will normally be refused, where relevant representations are received, unless the applicant can demonstrate in their operating schedule that there will not be an adverse cumulative impact on one or more of the licensing objectives.

*REASONS The Licensing Authority has identified concerns about incidents of disorder and public nuisance within the area defined as the Cumulative Impact Zone in the plan attached at appendix A of this policy statement. The Authority has reviewed the evidence and concluded that the risk of cumulative impact is likely to occur. Having consulted with the parties specified in section 5(3) of the 2003 Act it has concluded that it is appropriate to renew this policy which has been in force since 2005 and was renewed in 2007 and 2010 as a result of the review of the licensing policy.*

*The Licensing Authority will continue to keep this policy under review.*

*REASON –Evidence has been provided to show that the Council should make provision for a Special Saturation Policy (otherwise known as a Cumulative Impact Policy) to be adopted in respect of this area.*

- The effect of this measure is to indicate that an application for a new Licence, or the variation of an existing Licence, would normally be refused. However, if it can be shown by the applicant that the activities described in the application will not add to the difficulties, the application may be granted,
- For example, while a nightclub or further public houses might add to problems, a small restaurant or theatre may not:

It would still be necessary for:

- I. the application to be submitted,
  - II. consultations to take place,
  - III. representations to be received and,
  - IV. appropriate consideration of the matter.
- It would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. A Special Policy will address the impact of a concentration of many licensed premises selling alcohol for consumption on the premises which may give rise to large numbers of people, who have been drinking alcohol, being on the streets in a particular area after licensed premises have closed, and
  - The operation of this aspect does depend on a number of factors but, specifically, that the problems are not the responsibility of any one premises. It is also necessary to clearly define the boundaries of the area concerned.

## 4 Consideration of an Application: Responsible Authorities and Interested Parties: Representations, Reviews and Conditions

- 4.1 Consideration of an Application:** Each licence application will be considered on its own merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authorities or interested parties, there is no provision for a licensing authority to impose conditions on a licence other than those proposed within an application.
- 4.2 The Licensing Authority:** There is no provision for a licensing authority itself to make representations, and that in the absence of any relevant representations in respect of an application, the authority is obliged to issue the licence on the terms sought.
- 4.3 Councillors as Interested Parties:** Councillors may make representations which must address the likely effect of the proposed premises on one or more of the following licensing objectives:
- The prevention of crime and disorder,
  - public safety,
  - The prevention of public nuisance; or
  - The protection of children from harm.
- 4.4** The same standards regarding representations and reviews are imposed on councillors as members of the general public deemed to be ‘in the vicinity’: Representations about “demand” or general problems are not relevant. In addition, representations must not be frivolous or vexatious. Requests for reviews must be made on a ground (or grounds) relevant

to the licensing objectives, and must not be frivolous or vexatious (as above), additionally, review applications must not be repetitious. If a review has been held recently and the circumstances at the premises remain the same, the licensing authority could reject the application for review.

- 4.5** A Responsible Authority or Interested Party can make representations to the Licensing Authority in relation to a Premises Licence application. A representation can be positive (in support of the application) or opposing an application but must relate to the premises and the likely impact of the application on one or more of the licensing objectives. A representation must be served on the Licensing Authority within the statutory deadlines (28 days from the date of the application).
- 4.6** Responsible Authorities are identified in the Act and accompanying Regulations and are listed at Appendix B. An Interested Party is defined in the Act as:-
- A person living in the vicinity of the premises,
  - A body representing persons who live in that vicinity,
  - A person involved in a business in that vicinity,
  - A body representing persons involved in such businesses, and
  - Elected members of the Licensing Authority.

#### **Applications for review of a Premises Licence / Club Premises Certificate**

- 4.7** The review process is integral to the operation of the Licensing Act 2003. The Government's intention is for a light touch regulatory regime with regard to the granting of new licences and variations. If problems arise in connection with a Premises Licence, it is for the responsible authorities and interested parties to apply for a review of the licence.
- 4.8** Any interested party / responsible authority may request a review of a Premises Licence; however the request must relate to particular premises and must be relevant to the promotion of the licensing objectives. Requests for review must be made in accordance with the regulatory requirements, and the Licensing Authority will reject any request which is not compliant with the requirements. Advice and guidance on the correct procedure should be sought from the Licensing Authority before making a request for review.
- 4.9** An application for review of a licence is required to be processed in accordance with the Act and the accompanying Regulations, which include requirements for the application to be published by the Licensing Authority. The process once started cannot be cancelled. It is, however, open to the body / person making the request to liaise with the licence holder, and for a resolution to be agreed and proposed to the licensing sub-committee for consideration.
- 4.10** **Reviews:** From 1 October 2007, Section 53a of the Licensing Act is amended by virtue of Sections 21 and 22 of the Violent Crime Reduction Act 2006. This allows for expedited reviews of alcohol licensed premises in cases of serious crime and disorder.
- 4.11** An expedited review takes place where a police officer of superintendent or higher rank, has certified to the Licensing Authority that premises licensed for the retail sale of alcohol have been associated with serious crime and/or disorder. The phrase 'serious crime' is spelt out in section 81 of the Regulation of Investigatory Procedures Act 2001 as follows:



*” the offence or one of the offences that is or would be constituted by the conduct is an offence for which a person who has attained the age of twenty- one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or  
that the conduct involves the use of violence results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.”*

### **Conditions applied by the Licensing Authority**

- 4.12** On issue of a Premises Licence or Club Premises Certificate where there have been no relevant representations or all such representations have been withdrawn, the licence will be issued subject only to conditions which are consistent with the premises operating schedule.
- 4.13** The Licensing Authority encourages applicants to liaise with responsible authorities and interested parties where concerns or objections have been raised in relation to an application for a licence. This has proved invaluable since the introduction of the Licensing Act 2003. Where all parties are able to reach agreement before the hearing in relation to appropriate conditions / restrictions, the Licensing Authority will normally impose those conditions and / or restrictions without the need for a full discussion at the hearing.
- 4.14** **Glass** – the Licensing Authority supports the use of alternatives to glass, and would encourage applicants to consider the use of toughened glass or polycarbonate which minimises the risk of injury to persons on the premises. Where, on determining a request for review of a Premises Licence, the Licensing Authority is satisfied that there is a high risk of injury whether due to the nature of the event or evidence in relation to accidents / incidents involving glass at the premises, consideration will be given to imposing conditions requiring the use of alternatives to glass and bottles.

## **5 The Licensing Committee and Delegated Sub Committees**

- 5.1** The Licensing Committee consists of 11 elected members of the Council and three members sit in rotation on sub committees to consider applications for licences. A Chairman is elected at each meeting of the sub-committee.
- 5.2** The Licensing Authority’s discretion is engaged on receipt of a relevant representation, and it is obliged to consider the matters of contention or concern, and resolve the situation by doing whatever it considers necessary, reasonable and proportionate to promote the licensing objectives. This may (depending on the application) include:-
  - a)** approval of the application in the terms sought,
  - b)** no action,
  - c)** approval of the application subject to conditions which are consistent with the operating schedule,
  - d)** approval of the application subject to restrictions (for example restricted hours of operation or restricted use of the premises for certain licensable activities,
  - e)** refusal to specify an individual as Designated Premises Supervisor,
  - f)** removal of the Designated Premises Supervisor from the Licence,
  - g)** suspension of a licence (this would be most likely where public safety issues have been identified and requires improvement works to be carried out),
  - h)** refusal of an application,



- i) revocation of a licence, and
- j) Issue of a counter notice to a temporary event notice.

**5.3** A Hearing will take place unless all parties have indicated that they believe this to be unnecessary and the Council has agreed. This will be notified to all parties immediately. In these cases, all written representations which have been received will be considered before a decision is made.

## 6 Licensing Hearings

**Although the Committee will be reasonably informal in its approach, it will have procedures which must be followed and the process should be treated seriously.**

**6.1** The Hearing will take place in public unless it would not be in the public interest for this to happen. The Committee may be advised, for example, that certain information may be revealed in respect of an individual or their business affairs, which should not be debated in public.

### **6.2 The Process:**

1. The Licensing Officer will introduce and summarise the matter to be considered, making reference to the his/her written report,
2. There will then be a discussion, led by the Chairman during which each party, or their representative, will be called upon to summarise the application, notice or representation,
3. The first to be asked to speak will normally be the applicant, or provider of the appropriate Notice, followed by those making representations or answering points raised in the Notice,
4. During the discussion, Members will be entitled to ask questions of all parties to clarify any issue which has arisen. **No party may, however, question another party without being granted permission by the Chairman to do so,**
5. The Committee will then retire to a separate private room and deliberate on the matter, the Legal Advisor may accompany them if they so wish. The decision, together with reasons will be communicated to all persons present at the conclusion of the Committees deliberations, and
6. In some cases, such as those where a hearing has been agreed to be unnecessary, the decision does not have to be delivered for up to 10 days.

**6.3 After the Hearing:** A Notice will be sent to all parties giving written details of the decision and the reasons. Information will also be provided giving details of any Right of Appeal to the Magistrates' Court.

## 7 Good Practice for licence holders and authorities

**7.1** The Licensing Authority acknowledges that licensing law is not the primary mechanism for the general control of nuisance and anti social behaviour by individuals once they are away from licensed premises. However it is a key aspect of such control and will always be part of

a holistic approach to the management of the evening and night time economy in the Islands.

**7.2** Where an interested party (such as a local resident, or a resident's association) or a responsible authority has made:

- (a) Valid representations about licensed premises; or
- (b) A valid request for a licence to be reviewed

**7.3** The Licensing Authority may initially arrange, facilitate and minute a mediation meeting to address and clarify the issues of concern. This is intended to promote discussion between all parties to establish the areas of concern, discuss proposals in more detail, and where possible to identify and discuss potential solutions. Solutions are not always possible, but there are benefits in allowing the opportunity for discussion and exchange of information even when agreement is not reached.

**7.4** A mediation meeting is also an opportunity for the Licensing Authority Officers to give advice on the law and to explain in detail the procedure which will be followed at the hearing, and the decision making process which will be adopted. Whether or not a mediation meeting will be held will be a decision for officers having regard to the potential benefits and the resources available to the service to be able to facilitate such meetings.

**7.5** This process will not override the right of any interested party or responsible authority to ask that the Licensing Authority to consider their valid representations. If any party declines to attend a mediation meeting this will be without prejudice to the non-attendee.

**7.6** **Staff training** - Licence holders are encouraged to ensure that all staff working at the premises are given appropriate training in relation to the requirements of the Licensing Act 2003, and other relevant legislation, together with the conditions and restrictions of the licence or the terms of a notice under which licensable activities are being held. Is it important that such training is recorded, and records maintained to show that the licence holder has taken reasonable steps to ensure that staff are aware of the requirements. Failure to do so may weaken any 'due diligence' defence in the case of a prosecution or consideration of any request for review of a licence.

**7.7** Licensees should ensure that they are aware of and comply with other relevant legislative requirements, for example, other Non Licensing Authority licensing issues such as Phonographic Performance, Performing Rights, and Copyright etc.

**7.8** This policy is not intended to duplicate existing legislation and regulatory regimes. Operators of licensed premises must however comply with the requirements of other legislation (e.g. planning, fire safety, health & safety, building regulations etc.). Non compliance with other legislative requirements may be considered by the Licensing Authority when determining a Premises Licence application or considering a request for a licence review on receipt of relevant representations.

## 8 Enforcement

- 8.1** The Licensing Authority seeks to achieve a balance between the licensed trade, the community and other stakeholders. Whilst conscious of the importance of licensed premises to the local economy and vitality of the community, the Licensing Authority acknowledges the potential issues associated with licensable activities in relation to nuisance and drunken anti social behaviour which in turn impacts on the community in a variety of ways. The Licensing Authority seeks to achieve a mutual co-existence, and will work with the licensed trade, responsible authorities and local communities to identify and resolve issues wherever possible.
- 8.2** The Licensing Authority will work closely with trade organisations (e.g. Pubwatches, LVA, BII) and similar groups to identify and encourage best practice. The Licensing Authority will also work with other licensing authorities both within and outside Cornwall and the Isles of Scilly to continue to assess and utilise best practice in place across the country.
- 8.3** The Licensing Authority encourages Pubwatch schemes and will actively support such schemes and attend meetings as appropriate. The Licensing Authority will have regard to applicants' involvement with and support for Pubwatch and other schemes where appropriate which have an interest in improving standards and promoting the licensing objectives.
- 8.4** **Drinks promotions** - The Licensing Authority supports measures to promote sensible drinking, including a commitment not to participate in drink promotions / happy hours etc. which encourage excessive drinking. Mandatory Conditions (see Appendix F) are now in force which prohibit the promotion of irresponsible drinking. Premises licences are likely to be subject to review where drink promotions have led to any of the licensing objectives being undermined. Licensees should consider not only the price of alcohol sold on the premises, but also the manner in which the alcohol is promoted, but are prevented by UK competition laws from agreeing a pricing policy with other operators.
- NOTE:** A number of Mandatory Conditions have been introduced in 2010 which outlaw particular types of drinks promotions and are attached to each premises licence and club certificate. These are detailed in Appendix F
- 8.5** All licensed premises must carry out a Fire Risk Assessment and record the significant findings of the fire risk assessment under article 9 of the Regulatory Reform (Fire Safety) Order 2005. Failure to carry out a fire risk assessment may result in appropriate enforcement action being taken by the Fire & Rescue Authority and / or an application by the Fire & Rescue Authority to the Licensing Authority for a review of the premises licence under Section 51 of the Licensing Act 2003.
- 8.6** The Fire & Rescue Authority will carry out audits of licensed premises on a risk assessment basis or following a fire, a complaint in relation to fire safety matters or a repeated number of unwanted fire signals (false alarms on an automatic fire detection system which require the attendance of the Fire Brigade).
- 8.7** The Licensing Authority will be notified by the Fire & Rescue Authority when a prohibition notice, enforcement notice, alterations notice or Notification of Defects is served on any licensed premises.

- 8.8** The Licensing Act 2003 retains the legal age for the purchase of alcohol at 18 years. There are other provisions in relation to access to alcohol and licensed premises by persons under the age of 18 years, and operators must ensure that they are fully aware of such provisions.
- 8.9** The Licensing Authority recognises the appropriate authority as listed at Appendix B as Responsible Authority to advise on the protection of children, and will be able to make representations in relation to premises applications.
- 8.10** The Licensing Authority recognises the right of operators to allow children into their premises at any time.
- a) Conditions may be imposed that restrict access for children:-
    - i) at certain times of the day,
    - ii) from certain areas of the premises,
    - iii) when certain licensable activities are taking place,
    - iv) for children aged under 16 years allowing access only when supervised by an adult, and
    - v) Full exclusion of children under 18 or a younger age limit.
  - b) Premises which will give rise to particular concerns in relation to children include those:-
    - i) where entertainment of an adult or sexual nature is commonly provided,
    - ii) where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for under-age drinking,
    - iii) with a known association with drug taking or dealing,
    - iv) where there is a strong element of gambling on the premises (but not for example the simple presence of a small number of cash prize gaming machines),
    - v) Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises, and
  - c) The Licensing Authority will not require operators to admit children to the premises, and conditions cannot be added to a licence requiring admission to children. Where children are excluded, appropriate signage will be required.
- 8.11** The Licensing Authority is committed to encouraging compliance with the Portman Group's 'Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks'. The Code is an essential tool in protecting children from harm as it addresses the issues surrounding marketing of alcohol in a way that is attractive to minors. Check the website for further information: - [www.portmangroup.org.uk](http://www.portmangroup.org.uk)
- 8.12** **Licensing Forum:** The Licensing Authority will establish a Licensing Forum to meet periodically to include representatives of responsible authorities, licence holders and other interested parties to discuss and keep under review matters relating to licensing, in particular the licensing policy and subsequent revisions to the policy.
- 8.13** **Partnership Working:** The Licensing Authority will endeavour to work with other authorities and government departments, to ensure a consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities throughout the Islands.

- 8.14** The Licensing Authority will investigate complaints against licensed premises. Complainants will be encouraged to raise the complaint directly with the operator or business concerned. In some circumstances the complainant may be referred to another authority for investigation.
- 8.15** Once away from licensed premises, a minority of persons may behave badly and / or unlawfully. It should be noted that there are other mechanisms outside of the licensing regime to deal with such issues including:-
- Planning controls,
  - Town centre partnership initiatives,
  - Designated Public Places Order (for the consumption of alcohol in designated public places),
  - Police enforcement of the normal law concerning disorder and anti-social behaviour, and
  - Powers granted by the Anti-social Behaviour Act 2003 / Violent Crime Reduction Act 2006.
- 8.16** The Licensing Authority's Enforcement Policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated and minor offence may be dealt with purely by way of a written warning, whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in prosecution and/or review of licence.
- 8.17** The Licensing Authority will seek to work with the police and other enforcement agencies in enforcing the licensing legislation which may include participation in planned operations (e.g. test purchasing). This will include information sharing about licence holders and licensed premises. A joint enforcement protocol has been drawn up with the police and other relevant statutory agencies.
- 8.18** The Licensing Authority will continue to participate in the Cornwall Licensing Officers' Group, which comprises of Officers from all Licensing Authorities within Cornwall and the Isles of Scilly, together with representatives from the Police, Fire Services, Trading Standards and other Responsible Authorities.

## **9 Integration with other strategies and legislation**

- 9.1** The Licensing Authority is committed to achieving a reduction in crime and disorder and nuisance throughout the Islands, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998.
- 9.2** The Council will continue to review and amend where necessary, Designation Orders made under the Police and Criminal Justice Act 2001. This creates an offence of failing to comply with the instructions of a police officer in relation to the consumption of intoxicating liquor in designated public places within the Islands.
- 9.3** Violent Crime Reduction Act 2007. The Council will if considered necessary to promote the licensing objectives, utilise the processes provided by this legislation. The Licensing

Authority would prefer where possible to work with licensees to achieve improvements to alcohol related problems without the need to identify Alcohol Disorder Zones.

#### **Crime & Disorder Reduction Partnership**

- 9.4 The Licensing Authority will have regard to current crime prevention strategies when processing applications under the Licensing Act 2003.

#### **Alcohol Harm Reduction Strategy**

- 9.5 This policy supports the aims of the alcohol harm reduction strategy, and seeks to promote responsible management of licensed premises in relation to the sale, supply and promotion of alcohol.

#### **Tourism & Culture**

- 9.6 The Tourism strategy is currently under review and will contain points which require the authority to consider at all times the necessity to maintain the peace and tranquillity currently found within the Islands and which is such a draw for the main industry in the Islands: that of Tourism.
- 9.7 The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that such issues can be taken into consideration.

#### **Transport**

- 9.8 The Licensing Authority will continue to work together with the responsible authorities, licence holders and members' clubs in looking at innovative transport options to achieve effective dispersal of people from centres of licensing activity late at night, and to avoid concentrations of people waiting to access transport that may result in disorder and disturbance.
- 9.9 Applications in respect of public open spaces are encouraged and this will assist in facilitating cultural activities which require a licence (e.g. street theatre, circuses, performing arts etc.)

#### **Planning/ Building Control**

- 9.10 The use of any licensed premises or places (including outside areas) are subject to planning controls. This would affect licensable activities held under a Premises Licence or Temporary Event Notice. There are several key differences between licensing and planning control. The most significant is that planning is concerned with how land is used, whereas licensing is concerned with ensuring that public safety in its widest sense is protected.
- 9.11 It is recommended that issues concerning planning permission be resolved before a licence application is made. The Planning Authority may make representations in respect of licensing applications particularly where:-
- The activity to be authorised would amount to a contravention of the existing planning permissions and/or conditions imposed on planning permissions for the premises, and
  - The hours being sought exceed those authorised by any relevant planning permission.

- 9.12** The Planning, Building Control and Licensing processes are distinct and separate as are the imposition of any conditions resulting from determination of an application. Licensing applications will not be a re-run of a planning application. The licensing section will regularly liaise with the Planning Section. Internal and external alterations to licensed premises must have building regulation approval where such approval is required under the Building Acts etc
- 9.13** Whilst licensing decisions should not duplicate other statutory provisions, the Council and operators should be mindful of the requirements and responsibilities placed on them by other legislation. For instance:
- Gambling Act 2005**
  - Environmental Protection Act 1990**
  - Noise Act 1996**
  - Clean Neighbourhoods and Environmental Act 2005**
  - Regulatory Reform (Fire Safety) Order 2005**
  - Health and Safety at Work Act 1974**
  - Public Health Act 2006**
  - Health Act 2006**
  - Equality Act 2010**
  - Criminal Justice and Police Act 2001**
  - Anti-Social Behaviour Act 2003**
  - Violent Crime Reduction Act 2006**
  - Crime and Disorder Act 1998**
  - European Convention on Human Rights; Human Rights Act 2011**
  - Christmas Day (Trading) Act 2004**
  - Live Music Act 2012**

## **10 Consultation Details**

- 10.1** This licensing policy has been drawn up in consultation with:

Council of the Isles of Scilly Children's Services

Isles of Scilly Fire and Rescue Service

Crime & Disorder Reduction Partnerships

Devon & Cornwall Constabulary

Holders of the various licences for premises in the Islands who will be affected by this policy, including:-

- Isles of Scilly Pub Watch,
- British Institute of Inn keeping (BII),
- British Entertainment and Dance Association (BEDA), and
- British Beer and Pub Association (BBPA).

Internal Council departments including:-

- Environmental Control,

- Health & Safety,
- Community Safety,
- Planning, and
- Legal.

Local businesses and their representatives, including:-

- Chambers of Commerce, specifically Island Partnership and
- Federation of Small Businesses.

Local residents and their representatives, including:-

- All Elected Members, and
- Residents' Associations.

Maritime & Coastguard Agency

Health Impact Assessment Coordinator, NHS Cornwall & Isles of Scilly

General Medical Practitioners at St Mary's Health Centre, Isles of Scilly

Other organisations (e.g. musicians unions) as appear to the Licensing Authority to be affected by licensing matters covered by this policy

**10.2** Most licence application forms, together with useful information can be found on the Council's website [www.scilly.gov.uk](http://www.scilly.gov.uk) .

**10.3** The Licensing Department is based at the Town Hall:

Licensing Department	Telephone:	01720 424000
Council of the Isles of Scilly	Fax:	01720 424017
Town Hall, St Mary's		
Isles of Scilly TR21 0LW		

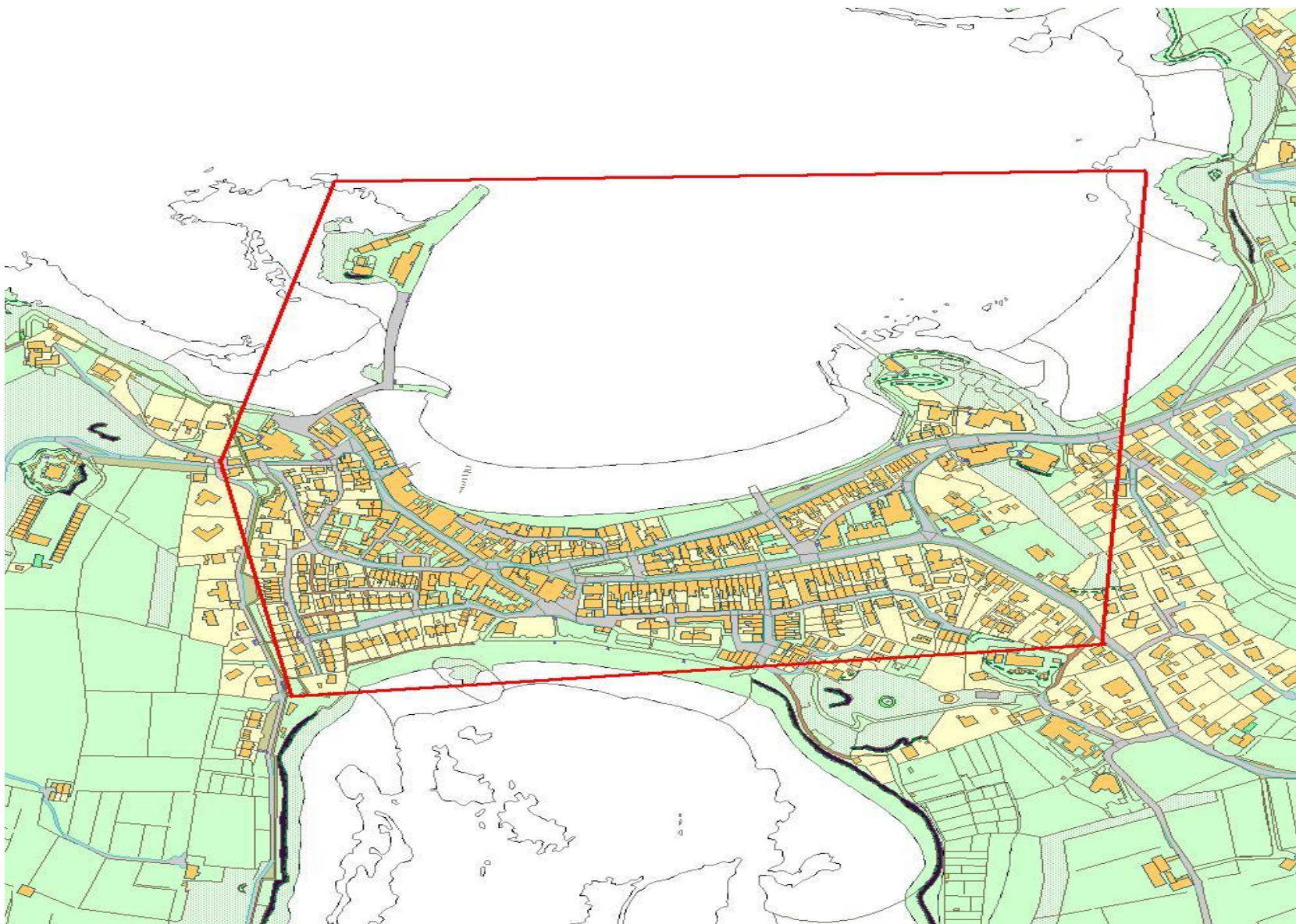


## Appendix A – Maps of the Islands



Position of the Isles of Scilly in relation to the rest of the UK

## Area of Cumulative Impact on St Mary's



## Appendix B – Contact details for Responsible Authorities

Responsible authority	Address	Telephone
Protection of Children	Senior Manager: Services to our Community Council of the Isles of Scilly Town Hall St Mary's Isles of Scilly TR21 0LW	01720 424034
Police	Licensing Department Devon & Cornwall Constabulary Launceston Police Station , Moorland Rd Launceston, Cornwall, PL15 7HY	01566 771309
Fire	Mr S Webster Isles of Scilly Fire Authority The Airport St Mary's, Isles of Scilly	01720 424330
Health & Safety	Health and Safety Council of the Isles of Scilly	01720 424000
Environmental Control	Environment Control Council of the Isles of Scilly	01720 424000
Trading Standards	Trading Standards Council of the Isles of Scilly	01720 424000
Local Planning Authority	Senior Manager for Infrastructure & Assets Planning and Development Council of the Isles of Scilly	01720 424310
Public Health	Health Impact Assessment Coordinator NHS Cornwall & Isles of Scilly Sedgemoor Centre, Priory Road, St Austell PL25 5AS	Licensing.notifications@cornwall.NHS.UK
<b>Responsible Body for Vessels</b>		
Maritime and Coastguard Agency	MCA Falmouth Pendennis Point Castle Drive Falmouth PL11 4WZ	01326 310800

The Responsible Authorities are subject to Regulations which may change – applicants will be advised of any variations when requesting application forms

## Appendix C – Schedule of delegated authority

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with relevant or foreign offences		All cases	
Application for provisional statement		If a relevant representation made If a relevant representation made	If no relevant representation made If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant 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 representation is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
Withdrawal of Club Registration Certificate where Licensing Authority is satisfied that the club is no longer a qualifying club			All cases
Decision to reject a request for review			All cases
Decision to extend time limits for hearings where it is considered to be in the public interest to do so.			All cases
Minor Variations			All cases

## Appendix D – Measures to promote the Licensing Objectives

Set out below are a range of measures designed to promote the licensing objectives. The list is not exhaustive and applicants should conduct risk assessments in relation to each of the licensing objectives, and determine what measures (whether listed below or not) would be appropriate, effective and proportionate to promote the licensing objectives given the proposed operation terms applied for.

**The Statutory Guidance issued under Section 182 of the Licensing Act 2003 states:**

*“In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.*

*Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:*

- *the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- *any risk posed to the local area by the applicants’ proposed licensable activities; and*
- *any local initiatives (for example, local crime reduction initiatives or voluntary schemes”.*

This does not in any way reflect an intention by the Licensing Authority to impose these measures as conditions to Premises Licenses, but is simply intended and designed to assist applicants in considering the potential issues in relation to the licensing objectives. Equally, considerations which are raised through relevant representations may not necessarily be included below. **The underpinning principle of the Licensing Act 2003, is that each application is determined on its individual merits having regard to the likely impact of that application on the four licensing objectives.**

The Statutory Guidance also has a pool of conditions that where appropriate, can be used to meet the licensing objectives.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/363262/Guidance\\_S182web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/363262/Guidance_S182web.pdf)

Applicants should however, ensure that they at least consider the following headings.

- 1 Documented training and induction policy:**
  - i Training in legal and social responsibilities associated with the sale and supply of alcohol,**
  - ii Retention of proper training records, and**
  - iii Promotion of licensing qualifications for staff.**
- 2 Provision of signage, alcohol free and ‘low alcohol beverages, use of posters and other methods to inform customers of the alcohol unit per drink served.**
- 3 Policy of preventing customers leaving licensed premises with bottles / glasses.**



- 4 Use of alternatives to glass drinking vessels at
    - i Outdoor events, and
    - ii Special occasions.
  - 5 Provision of secure containment (e.g. one way receptacles) of empty bottles, and prompt clearing of empty glasses throughout operating times.
  - 6 Use of CCTV both inside and outside the premises in appropriate locations (including all external doorways)
    - i In consultation with the Police
  - 7 Maintenance of documented Entry and Exit Policies
    - i Queue management where appropriate,
    - ii Monitoring refusals in respect of people who are drunk and disorderly or excluded under Pubwatch,
    - iii Systems for effective dispersal from premises on closure,
    - iv Data for Clubbing guidance from Home Office,
    - v Use of both male and female staff, and
    - vi Requirement for SIA registration.
  - 8 Maintenance of documented Drugs Policies
  - 9 Maintenance of documented Proof of Age Policy
  - 10 Maintenance of documented Special Risk Management
  - 11 Maintenance of a log recording incidents at or near the premises
  - 12 Active participation in local crime prevention schemes
  - 13 Registration and participation with any crime prevention initiatives run by the Police.
  - 14 Documented policies to control public nuisance (litter, noise, including late night noise, rowdiness, machine noise, etc)
  - 15 Maintenance of documented Emergency Procedures
  - 16 Calculation and documentation of maximum occupancy limits
    - *Entry level – A short guide to making your premises safe from fire. **Product code:** 05 FRSD 03546*
    - *Fire Safety Risk Assessment for large places of assembly (where more than 300 persons could gather) **ISBN** 978 1 85112 821 - 1*
    - *Fire Safety Risk Assessment for small and medium places of assembly (for premises accommodating up to 300 persons) **ISBN** 978 1 85112 8201 – 4*
    - *Fire Safety Risk Assessment – Open Air Events and Venues – **ISBN** 978 1 85112 823 5*
    - *Supplementary Guide – Means of escape for disabled people*
- All of the above guidance documents are available from the Communities and Local Government web site**
- 17 Maintenance of Safety Policies

- 18      Provision and maintenance of satisfactory sanitary facilities.**
- 19      Provision and maintenance of appropriate ventilation system**
- 20      Policy in relation to protection of children from harm.**

## Appendix E – Cumulative Impact Policy

- 1 The night time economy, whilst bringing pecuniary benefits to operators within the area, places enormous strain on the infrastructure of Hugh Town in terms of policing, cleansing and maintaining public open spaces etc. This together with disturbances to the peace and tranquillity required by the accommodation providers has the potential to undermine the licensing objectives relating to crime and disorder, public safety and public nuisance.
- 2 At the commencement of the Licensing Act 2003, the Licensing Authority adopted a special policy regarding cumulative impact. This was implemented where it considered that a significant concentration of licensed premises would have an impact on the licensing objectives and granting of further licences in that area would add to this impact.
- 3 The Licensing Authority created a saturation zone, based on information supplied to it in 2005 on noise nuisance and other related matters, it was subsequently included in the 2007 Licensing Policy on renewal.
- 4 A map of the area is shown in appendix A. Properties on both sides of any road which borders the area are deemed to be included within the area.
- 5 A survey undertaken by Community Safety in 2013 indicated a concern within the community regarding drunk or rowdy behaviour, on-street and beach drinking in the Hugh Town area as well as a general unease about underage consumption of alcohol.
- 6 It is considered that the cumulative impact of further new licences in this area may lead to the area becoming further saturated with premises of a certain type, making the area a focal point for large groups of people, thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves.
- 7 The special policy regarding cumulative impact is not absolute and where licences are unlikely to add to the cumulative impact on the licensing objectives, or the Licensing Authority does not receive any representations, the licence will be granted.
- 8 The Licensing Authority will not operate a quota of any description including any under a special policy, that would pre determine an application. Each application will be considered on its individual merits. Proper regard will be given to the contrasting styles and individual characteristics of the premises concerned, and the differing impact they may have on the local community.

If an application for a licence within the area of cumulative impact is made, the Licensing Authority will expect the applicant to demonstrate in their operating schedule, the steps to be taken to prevent problems of nuisance and, public safety and the steps to be taken to promote the reduction of crime and disorder. The onus of proof will be on the applicant to show that the application will not impact adversely on the four licensing objectives.
- 10 The Licensing Authority recognises that if no representations are made regarding an application for a licence within the area of cumulative impact, the Licensing Authority must and will grant the licence.
- 11 The Cumulative impact will be subject to review.



## Appendix F – Mandatory Conditions

These conditions are added to every licence

### 1 Mandatory Condition: Supply of Alcohol

#### 1.1 No supply of alcohol may be made under the premises licence:-

(a) At a time where there is no Designated Premises Supervisor in respect of the premises.

or

(b) At a time when the Designated Premises Supervisor does not hold a personal licence or his/her personal licence is suspended.

#### 1.2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### 2 Mandatory Condition: Exhibition of Films

#### 2.1 Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

#### 2.2 Where the film classification body is specified in the licence, unless subsection (3) (b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

#### 2.3 Where

- (a) The film classification body is not specified in the licence, or
- (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question; admission of children must be restricted in accordance with any recommendation made by that licensing authority.

#### 2.4 In this section

- “children” means persons aged under 18; and
- “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c. 39) (authority to determine suitability of video works for classification).

### 3 Mandatory Condition: Door Supervision

#### 3.1 Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

#### 3.2 But nothing in subsection (1) requires such a condition to be imposed—

- (a) In respect of premises within paragraph 8(3) (a) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (premises with premises licences authorising plays or films), or
- (b) In respect of premises in relation to—
  - (i) Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate,

under a temporary event notice authorising plays or films or under a gaming licence), or

- (ii) Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

**3.3** For the purposes of this section—

- (a) “Security activity” means an activity to which paragraph 2(1) (a) of that Schedule applies, and
- (b) Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**4 Mandatory Conditions (effective 6 April 2010)**

**4.1** The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

**4.2** In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

- (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to-
  - i. Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - ii. Drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
  - i. The outcome of a race, competition or other event or process, or
  - ii. The likelihood of anything occurring or not occurring;
- (e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorize anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

**4.3** The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

**4.4** The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

**5 Mandatory Conditions (effective from 1 October 2010)**

- 5.1** The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- 5.2** The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
- 5.3** The responsible person shall ensure that-
- (i) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
  - (ii) Beer or cider: ½ pint;
  - (iii) Gin, rum, vodka or whisky: 25 ml or 35 ml;
  - (iv) Still wine in a glass: 125 ml; and
  - (v) Customers are made aware of the availability of these measures.

**5.4 Mandatory Conditions (effective 28 May 2014)**

- 1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2 for the purposes of the condition set out in paragraph 1 –
  - a) “duty” is to be construed in accordance with the Alcoholic Liquor Act 1979
  - b) “permitted price” is the price found by applying the formula
 
$$P = D + (D \times V)$$

Where –(i) **P** is the permitted price,

(ii) **D** is the amount of duty chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of alcohol, and

(iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of supply of alcohol;
  - c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - d) “relevant person, means in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enable the member or officer to prevent the supply in question; and
  - e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
- 3 Where the permitted price given by paragraph b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub paragraph shall be taken to be the price actually given by that sub paragraph rounded up to the nearest penny.

- 4 The permitted price which would apply on the first day applies to the sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Mandatory Conditions Effective 1 October 2014**

- 1 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
  - (b) an ultraviolet feature.
4. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance

ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”