

## LICENSING COMMITTEE

YOU ARE REQUESTED TO ATTEND A MEETING OF THE LICENSING COMMITTEE TO BE HELD IN THE PRINCIPAL COMMITTEE ROOM, THE DEANE HOUSE, BELVEDERE ROAD, ON TUESDAY 6TH NOVEMBER 2007 AT 18:15.

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### **AGENDA**

1. Appointment of Chairman of the Licensing Committee.
2. Appointment of Vice-Chairman of the Licensing Committee.
3. Apologies.
4. Minutes of the meeting of the Licensing Committee held on 12 July 2006 (attached).
5. Public Question Time.
6. Declaration of Interests. To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
7. The roles and duties of the Licensing Unit and decisions likely to be referred to the Licensing Committee or Sub-Committee. Report of the Operations Manager (Public Safety) (attached). Jim Hunter
8. Consultation on the Revised Licensing Policy drafted in accordance with the Licensing Act 2003. Report of the Operations Manager (Public Safety) (attached). Jim Hunter

G P DYKE  
Democratic Services Manager  
30 October 2007

Licensing Committee Members:-

Councillor Mrs Allgrove  
Councillor Beaven  
Councillor Coles  
Councillor Mrs Court-Stenning  
Councillor Floyd  
Councillor Guerrier  
Councillor Mrs Hill  
Councillor House  
Councillor Mrs Lees  
Councillor McMahon  
Councillor Meikle  
Councillor Murphy  
Councillor Watson  
Councillor Woolley



Members of the public are welcome to attend the meeting and listen to the discussion. Lift access to the main committee room on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is a time set aside at the beginning of the meeting to allow the public to ask questions



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact Greg Dyke on:

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Website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk) (Council, Executive, Review Board & Review Panel Agenda, Reports and Minutes are available on the Website)

## **Licensing Committee – 12 July 2006**

Present: Councillors Mrs Allgrove, Beaven, Mrs Bradley, Croad, Floyd, Hall, Mrs Hill, Meikle, Phillips, Slattery, Mrs Smith and Stuart-Thorn.

Officers: Mr J Barrah (Chief Environmental Health Officer)  
Mr P Dare (Licensing Officer)  
Mrs D Durham (Review Support Officer)  
Mr J Hunter (Licensing Manager)  
Mrs W Sharland (Member Services Officer)  
Mr I Taylor (Chief Solicitor)

Also Present: Councillor Leighton

(The meeting commenced at 6.15 pm)

### **4. Appointment of Chairman**

RESOLVED that Councillor Mrs Allgrove be elected as Chairman of the Committee for the remainder of the Municipal Year.

### **5. Appointment of Vice-Chairman**

RESOLVED that Councillor House be elected as Vice-Chairman of the Committee for the remainder of the Municipal Year.

### **6. Apologies**

Councillors Hindley and Mrs Lewin-Harris

### **7. Minutes**

The minutes of the meeting held on 16 January 2006 were taken as read and signed.

### **8. Public Question Time**

Mr Parker was concerned that as an objector to the recent sex shop application, he had not been notified of the Licensing Committee meeting.

The Chief Solicitor, Mr Taylor, explained that the agenda was displayed at the front of The Deane House and also on the website. It was not the Council's policy to notify individuals.

Mr Parker also asked if the Committee would set a limit for the whole of Taunton, rather than the two Wards, as detailed in the report.

Mr Taylor stated that the Committee would consider the setting of a limit for sex establishments and would decide the area to be covered by the limit.

Mr Adam asked why he had been unable to access the agenda on the Taunton Deane web site.

Councillor Leighton replied that the agenda was published on the web site and although she had not experienced a problem accessing it, it might have been a temporary problem.

## **9. Gambling Act 2005 – Draft Statement of Principles**

Reference Minute No. 3/2006, reported that the Gambling Act 2005, which had received Royal Assent on 7 April 2005, repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.

The Act removed from licensing justices all responsibility for granting gaming and betting permissions, which they currently undertook. The gaming responsibilities undertaken by the licensing justices would pass to Taunton Deane Borough Council (the Licensing Authority).

The Act placed a duty on the Licensing Authority to produce a Statement of Principles (also known as the “Gambling Policy”). Licensing Authorities were required to review the policy document at least every three years. In producing this document, the Licensing Authority was required to take account of the views of those representing the holders of existing licences and certificates, local residents and businesses and the police.

The Statement of Principles had to be adopted by the Council by 31 January 2007, which was the same date that applications for premises licences and permits could be submitted.

The Gambling Act gave Licensing Authorities a number of important functions, including:-

- licensing premises for gambling activities;
- considering notices given for the temporary use of premises for gambling;
- granting permits for gaming and gaming machines in clubs and miners’ welfare institutes;
- regulating gaming and gaming machines in alcohol licensed premises;

- granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- granting permits for prize gaming;
- considering occasional use notices for betting at tracks; and
- registering small societies' lotteries.

The Act had also created the Gambling Commission to act as a unified regulator for gambling in Britain. Its role included:-

- issuing Operating and Personal Licences to specified organisations and individuals;
- issuing guidance and codes of practice;
- monitoring licence holders and applying penalties when required; and
- advising the Secretary of State on gambling matters.

A draft Statement of Principles had been developed, based on advice received from the Local Authorities Co-ordinators of Regulatory Services (LACORS). A copy of the draft was submitted for consideration by Members.

The Licensing Act 2003 had given Licensing Authorities wider discretion in compiling a licensing policy and was not as prescriptive as the Gambling Act. It was expected that most authorities would adhere to the LACORS template.

Noted that it was possible the currently unpublished Statutory Guidance, Regulations and Codes of Practice that would be issued by the Gambling Commission might affect the policy produced, but these could be incorporated into the policy.

Fees and charges would be set centrally by the Government and there would be limited local discretion in relation to these.

There would be approximately 100 premises needing premises licences and this figure included public houses, betting shops, bingo halls, tracks and amusement arcades.

Reported that it was intended that the draft Statement of Principles would be subject to extensive consultations prior to its adoption by the Council. Twelve weeks would be allowed for responses to be made to the consultation.

The Committee discussed the problem of the timescale for the implementation of the Gambling Act. It was agreed that the Council should lobby the local Member of Parliament and should also write to the Minister responsible, requesting a more realistic timescale.

RESOLVED that:-

- 1) The draft Statement of Principles under the Gambling Act 2005 be agreed;
- 2) Consultation on the draft Statement of Principles be undertaken as required by the Gambling Act 2005 and associated statutory guidance; and
- 3) A final Statement of Principles be submitted to Council for consideration and approval following consultation, later this year.

#### **10. The Licensing of Sex Establishments within the Borough of Taunton Deane**

Considered report previously circulated, concerning two sex shop licences that had been granted for premises in Station Road, Taunton.

There were currently licences for two sex shops in the Station Road area, one granted in November 2003 at 50 Station Road and the other premises due to open shortly at 85 Station Road.

Objectors to the two applications were concerned that the premises were close to schools, churches and the Albemarle Centre. The letters of objection also stated that Station Road was used by children who walked to school and to various amenities in the town.

It was also felt the presence of the sex shops might lead to additional problems including kerb crawling, prostitution, lap dancing premises and more sex shops. The present number did not give cause for concern, but this might not be the case, should the number of these establishments increase.

The Local Government (Miscellaneous Provisions) Act 1982 Part 2, Schedule 3 governed sex establishments. The Act permitted a Council to refuse a licence in circumstances where the number of sex establishments in the relevant locality at the time the application was made was equal to or exceeded the number which was considered appropriate for that locality.

The area designated as the “relevant locality” had to pass the “Wednesbury” principle of reasonableness. Case law suggested that the whole of an administrative area was too large to establish as a “relevant locality”. The Licensing Committee therefore had to decide if

it was appropriate to establish the number of sex establishments for a “relevant locality” and what area that should be.

When determining the extent of a locality, the Licensing Committee had the following options:-

- Using a point in a map as the centre of a circle;
- Using specific points or landmarks in an area as boundary points; or
- Specifying a locality already determined by other means such as areas constituting Council Wards.

To minimise the risk of further applications being made in the Station Road area, a limit could be set on the appropriate number of sex establishments that would be permitted.

All wards within Taunton Deane were predetermined and details of the boundaries were circulated.

Future applications for sex establishments would be considered on their own merits and would take into consideration the location and suitability of the premises.

Additional guidance used when determining any application for a sex establishment was also circulated. The guidance included factors that would be considered, including the proximity to:-

- residential property;
- shops and other business premises that were aimed or catered for the family market especially those that catered for children;
- properties that were sensitive for religious purposes such as, but not exclusively churches; and
- areas that were sensitive, because they were frequented by children or families, including but not limited to educational establishments, leisure facilities, libraries, swimming pools, markets or covered markets.

The following factors would also be taken into account when considering the suitability of the premises:-

- Historical significance and previous use of the building; and
- The design and layout of the building.



The Boundary Commission had announced a change to the Wards in Taunton Deane and although the changes would not take effect until May 2007, it was thought inappropriate to base the limit on individual Wards.

Market forces would determine how many applications were received, however it was felt that an area should be defined in order to offer guidance to any applicants.

It was suggested that a limit should be set for the unparished area of Taunton at two and the parished area of Taunton at zero.

**RESOLVED that:-**

- 1) The Council be recommended to adopt a policy that set the appropriate total number of sex establishments in the unparished area of Taunton as two and the parished area of Taunton as zero; and
- 2) The guidance as detailed in the report be approved as detailed in the report and that it be provided to any future applicants for sex establishments.

## **11. Licensing Progress Report**

Considered report previously circulated, concerning the number of licensed premises within the Council's licensable area and their opening hours. The report showed the current position in order to assess the impact of the Licensing Act 2003.

The Licensing Authority had issued 547 Personal Licenses and there were 425 premises licensed to sell or supply alcohol or provide regulated entertainment or late night refreshment. The types of licensed premises were detailed.

There were a number of applications still being made in relation to the Licensing Act and details of these were circulated.

The Council was one of ten selected in England and Wales by the Department of Culture, Media and Sport, to be a Scrutiny Council. The purpose of Scrutiny Councils was to evaluate the implementation of the new licensing regime, review the guidance issued by the Secretary of State and to make recommendations to improve the guidance. Clarification was needed in a number of areas of the guidance, and a complete revision was expected to be published in November 2006.

Most of the premises licenses issued had conditions attached, to promote the licensing objectives. Officers from the Licensing Unit were working with the Police to ensure compliance with these conditions.

The Licensing Unit had received less than ten complaints in relation to licensed premises and all related to either noise or light pollution. No requests to review licenses had been received from responsible authorities or interested parties. It was agreed that details should be placed in the Weekly Bulletin to highlight the successful implementation of the Licensing Act 2003 and the co-operation that had been received from the landlords.

The publicity of applications for premises licenses or the variation of a premises license had caused certain ongoing problems. The statutory requirement was for a public notice and a notice to be displayed on the premises. The Licensing Unit also detailed these applications in the Weekly Bulletin. However, due to the large number of applications received last year, individual notification to Ward Councillors had not been possible. This situation was now being addressed though.

RESOLVED that:-

- 1) The contents of the report be noted; and
- 2) All new applications and applications to vary a licence be notified to Councillors using the Ward Based Information Service.

(The meeting ended at 8.05pm).

# **Taunton Deane Borough Council**

## **Report of the Operations Manager (Public Safety)**

**Report detailing the roles and duties of the Licensing Unit and decisions likely to be referred to the Licensing Committee or Sub- Committee.**

### **Executive Summary**

This report summarizes the functions of the licensing unit and the likely role of the Licensing Committee.

#### **1. Purpose of Report**

- 1.1 The purpose of this report is to advise members of the statutory roles and functions of the licensing unit, the report details the areas of licensing that the Council is responsible for. The report will also give likely scenarios that will subject to determination by the Licensing Committee.

#### **2. Background**

- 2.1 The licensing unit consists of; 1 senior licensing officer, 2 licensing officers and 1 clerical support officer the unit is managed by the operations manager who also manages the food and health & safety teams. The licensing unit is part of Environmental Health. Officer from the licensing unit regularly work outside normal office hours as part of the contract.
- 2.2 The unit issues 50 different types of licences, permits or consent from acupuncture to Zoos (if there were any zoos in TDBC). The purpose of the unit can be described as prevention of harm to animals, prevention of fraud and ensuring public safety. The busier more contentious areas of licensing are; licensed premises for the sale of alcohol or provision of regulated entertainment, gambling premises, taxis and sex shops. Other functions include animal welfare licensing, tattoo and piercing, street trading & charity collections.

#### **3. Decision Making Process**

- 3.1 The majority of the legislation relating to licensing allows the decision to grant refuse or revoke licences or consents to be delegated to Officer level. In the main the scheme of delegation is at Chief Environmental Health Officer or Operations Manager level. Certain Acts for example, the Gambling Act and Licensing Act stipulate that decisions are to be made by a Licensing Committee or Sub-Committee.
- 3.2 Decisions that are likely to be contentious or that have political ramifications will be referred to the Licensing Committee, including applications for a sex establishment and conditions relating to taxi conditions.
- 3.3 there are other decisions that will not be made at officer level or by the Licensing Committee these include fees and Charges and certain operation decisions

made by the Executive Councillor.

#### **4. Recommendations**

The Licensing Committee note the content of this report.

#### **Contact Officer:**

Jim Hunter   Operations Manager

ext 2462

# **Taunton Deane Borough Council**

## **Report of the Operations Manager (Public Safety)**

### **Report following Consultation on the Revised Licensing Policy drafted in accordance with the Licensing Act 2003**

#### **Executive Summary**

The Licensing Act 2003 received Royal Assent in July 2003. The Act created a unified system of regulating the activities of the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. These activities are referred to collectively as “the licensable activities”. The Licensing Act required each licensing authority to produce a licensing policy to be used to assist in determining licensing applications. The current licensing policy was adopted by the licensing authority in December 2004. The Licensing Act details the licensing authority must review their licensing policy at least every three years.

The existing licensing policy is 27 pages long. Initially it was created to give guidance in relation to the transitional arrangements in transferring from one regime of licensing legislation to the new system in accordance with the Licensing Act 2003. The revised draft licensing policy is 10 pages long and features recommended changes based on the experience of the last three years. This report will demonstrate the key changes between the existing policy and the recommended new licensing policy.

In producing this document, a licensing authority is required to take account of the views of those representing the holders of existing licences and certificates, local residents and businesses, the police and the fire authority. Licensing authorities will also be required to take into account guidance on policy issues issued by the Secretary of State. The revised policy must be adopted by 14 December 2007.

#### **Licensing Act 2003**

##### **1. Purpose of Report**

- 1.1 The purpose of this report is to advise members of the recommended revised licensing policy and to detail what has been done and what is being done in relation to drafting the licensing policy.

##### **2. Background**

- 2.1 The Licensing Act is supplemented by guidance issued by the Department for Culture Media and Sport (DCMS). The guidance details what should and should not be included in a licensing policy. The starting point of the Licensing Act is that 24 hour licensing is permissible and that there are four objectives to the Act.

These objectives are:

- (1) the prevention of crime and disorder;
- (2) public safety;

- (3) the prevention of public nuisance;
- (4) the protection of children from harm.

2.2 The Act and guidance also states that conditions should not be attached to licences that do not relate to the licensing objectives and that are covered by other areas of legislation. There should be no fixed closing hours and no zoning of areas.

### **3. The Effect of the Guidance and the Act**

3.1 If the guidance and Act were to be followed explicitly it would mean that any premises wishing to sell alcohol for consumption on or off the premises, provide food, provide entertainment, exhibit films or perform a play, they could do so up to 24 hours each day. The only conditions that could be attached to the licence must directly relate to the four licensing objectives.

### **4. Aims and Objectives of Taunton Deane Borough Council's Licensing Policy**

4.1 To provide guidance on what would normally be approved in relation to an application for a licensed premises. This guidance would not be restricted to the applicant but would also provide advice for other interested parties such as nearby residents and businesses.

### **5. Key Changes Between the Existing and Draft Revised Policy**

5.1 The revised licensing policy is shown at Appendix 1 to this report. The key differences are:

- The revised licensing policy does not duplicate legislation or the Secretary of State's guidance.
- The revised policy does not include any references to the transitional arrangements, as they are no longer applicable.

5.2 The specific changes in the policy are detailed in 2.1.2, 2.1.3 & 2.1.4. They are:

- The revised licensing policy places a presumption that there will be a last time of entry (1am) to licensed premises.
- The revised licensing policy encourages applicants to give more consideration to noise related issues, glass related injuries, smokers, smoking outside their premises and underage sales.

### **6. Consultation Process/Adoption Process**

6.1 All stakeholders, including licensed premises and responsible authorities were advised they would be a 12 week consultation process which would end on 2 November 2007. The licensing unit have not received any suggested amendments to the policy to date, (30 October 2007).

6.2 The draft policy following any suggested amendments will be the subject of a report scheduled for the Executive on 14 Nov 2007 and full Council on the 11 of December 2007.

## **7. Recommendations**

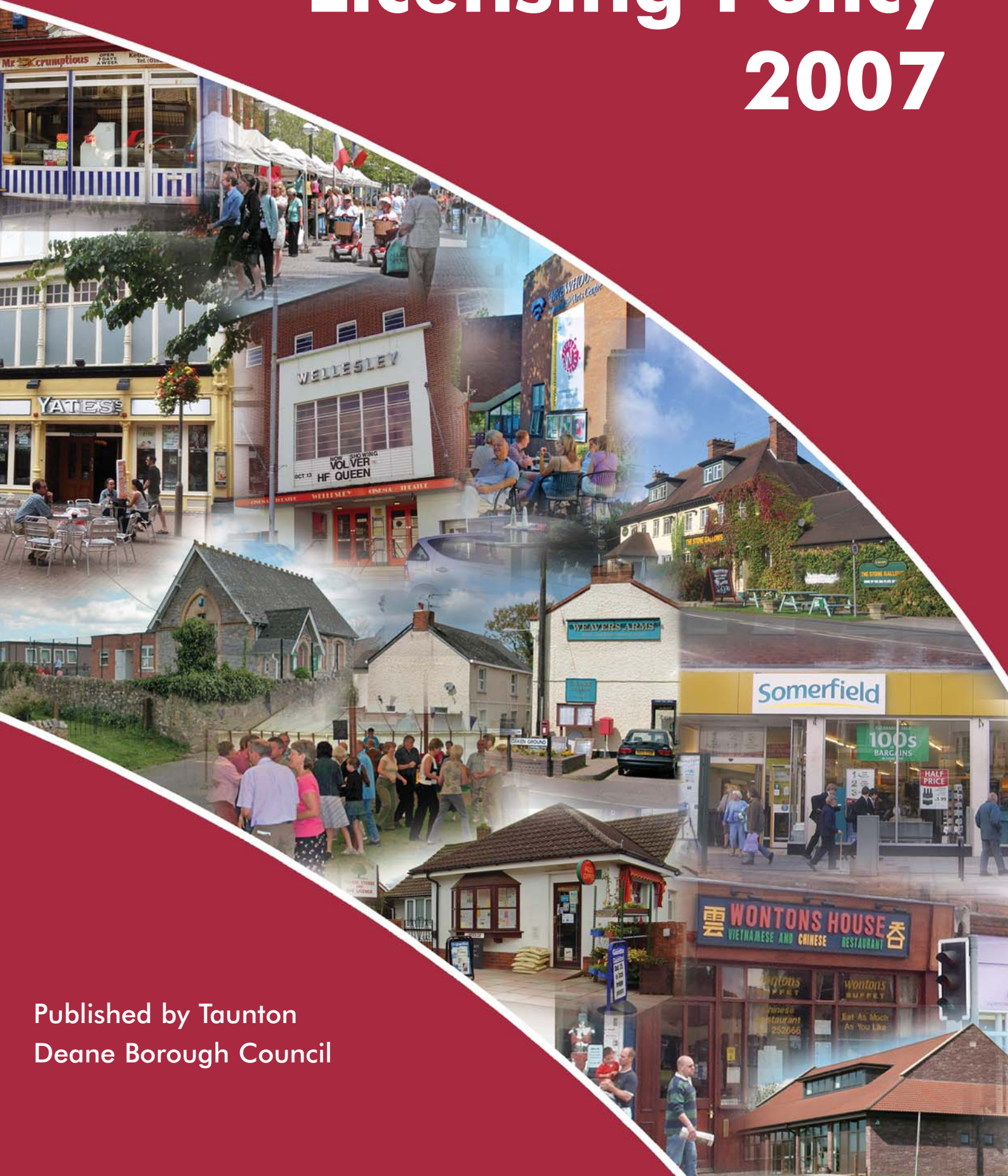
- 7.1.1 The Licensing Committee are recommended to review the draft revised licensing policy and suggest revisions they would like to be considered by the Executive and or Full Council.

### **Contact Officer:**

Jim Hunter Operations Manager

ext 2462

# Draft Revised Licensing Policy 2007



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If you wish to make comments on this Licensing Policy or if you want further information regarding the Licensing Act 2003 please contact:

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Information is also available from:

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The Licensing Act can be viewed at: [www.hms.o.gov.uk/acts/acts2003/20030017.htm](http://www.hms.o.gov.uk/acts/acts2003/20030017.htm)

The Secretary of State's Guidance can be viewed at:  
<http://www.culture.gov.uk/NR/rdonlyres/597B72E2-61BC-44AD-98D2-6BC7208FD740/0/RevisedGuidanceJune2007.pdf>

## 1.0 Introduction

### 1.1 Background

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

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

1.1.2 Unless otherwise stated this licensing policy will not depart from the revised Secretary of State's Guidance laid before Parliament on 28 June 2007. Therefore to reduce repetition if matters are detailed in the Guidance they may not be included in this policy

### 1.2 Aim

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

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

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

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

### 1.3 Purpose

The main purpose of this policy is to provide clarity to applicants, interested parties and responsible authorities on how the Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment.

### 1.4 Consultation

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

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

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

## 1.5 Fundamental Principles

- 1.5.1 This Policy sets out the Licensing Authority's general approach to the making of licensing decisions and is consistent with the provisions of the Act. Nothing in the Policy will undermine the right of any individual to apply for permissions and to have any such application considered on its individual merits. Similarly, nothing in the policy will override the right of any person to make representations on an application or to seek a review of a licence or certificate where provisions have been made to do so in the Act.
- 1.5.2 The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations and only if a Licensing Committee or Licensing Sub-Committee determines the matter. Any conditions attached to the licence must relate to the promotion of the Licensing Objectives.
- 1.5.3 The Licensing Authority acknowledges that the Government believes that in some circumstances flexible hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 1.5.4 It is necessary to consider national guidance in the context of local circumstances. Where licensed premises are surrounded by housing, unrestricted extensions of hours could extend the time of such disturbance to later in the night. The Guidance acknowledges that tighter control may be justified in residential areas and the Licensing Authority considers that this is particularly relevant to parts of its administrative area, always having regard to the individual merits of any application.
- 1.5.5 In general terms the Licensing Authority will closely scrutinise applications for premises licences showing a late terminal hour so as to be satisfied that they will have no adverse impact on the licensing objectives.
- 1.5.6 Once people are beyond the control of the individual, club or business holding the relevant authorisation licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour. Licensing law will always be part of a holistic approach to the management of the evening and night-time economy in this Borough.

## 2. General Principles

In all applications relating to premises, the Legislation requires applicants to specify methods by which they will promote the four licensing objectives in their operating schedules. The operating schedule should include reference to the measures the applicant intends to promote the licensing objectives.

### 2.1 Revisions to Policy.

- 2.1.1 The Licensing Authority have a duty to review their Licensing Policy and have therefore consulted with Responsible Authorities and other stakeholders since the implementation of the legislation in order to identify topics that may need to be added or removed from the Licensing Policy.
- 2.1.2 Specific areas of concern include:
- Sales of alcohol from "On" and "Off" licensed premises.
  - Glass related injuries.
  - Noise from music on the premises.
  - Nuisance and disturbance from smokers immediately premises.

- 2.1.3 Applicants for a premises licence are advised to include in their Operating Schedule, (where applicable) specifically how they prevent sales of alcohol to persons under 18, minimise glass related injuries and or assaults, prevent noise from licensed premises become a nuisance and manage customers outside their premises who are smoking.
- 2.1.4 Crime Statistics locally indicate that a last time of entry condition is assisting in the promotion of the licensing objectives it therefore expected that applicants for late licensed premises will detail in their operating schedules that there will be no new entry to the premises after 1am.

## 2.2 Children and cinemas

- 2.2.1 The Act requires applicants for premises licences and club premises certificates to copy details of their applications to a body which:
  - a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
  - b) is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters.
- 2.2.2 The Licensing Authority's policy is that the "Responsible Authority" in relation to the protection of children from harm will be Somerset County Council's Social Services Department at County Hall, Taunton, TA1 4DY. Further details will be available in the Licensing Authority's guidance documents.
- 2.2.3 The Licensing Authority will expect licensees of premises giving film exhibitions to include, in their operating schedules, arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the Licensing Authority.
- 2.2.4 The Licensing Authority does not intend to adopt its own system of film classification but reserves the right to amend the classification imposed by the British Board of Film Classification.
- 2.2.5 If the Licensing Authority attaches an age-restriction to any film that differs from the BBFC classification or attaches one to an unclassified film, the information about the Licensing Authority's classification will be published on the Council's website at [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk).

## 2.3 Licensing Hours

- 2.3.1 With regard to licensing hours the Licensing Authority will consider each application on its individual merits.
- 2.3.2 Applications for premises licences with a terminal hour later than 12 midnight where the sale or supply of alcohol for consumption on the premises is the main activity or where the sale or supply of alcohol is accompanied by musical entertainment, will be subject to close scrutiny by the Responsible Authorities to ensure that there will be no adverse impact on the licensing objectives. Specifically, the applicant should ensure that the operating schedule for such a premises demonstrates how the licensing objectives will be met. Applicants are strongly recommended to seek the advice of both the Council's Licensing Officers and the Police in this regard.

- 2.3.3 This is a general policy and does not automatically mean that all applications will result in licences being granted until midnight or that no applications will be granted with a closing hour after midnight.
- 2.3.4 In considering these issues the Licensing Authority will give careful consideration to the nature of the venue proposed. For example, the Council is keen to promote establishments at which the service and consumption of alcohol is not the primary activity. These may include restaurants, theatres, cinemas, comedy clubs, galleries, museums, and similar venues. The Licensing Authority's experience is that such venues are liable to give rise to fewer public concerns, and so applications for such premises to operate past midnight are more likely to be successful.
- 2.3.5 The Licensing Authority will pay special regard to the proximity of residential uses to the proposed premises, the parking areas and routes taken by customers when arriving at and leaving the premises. Consideration will be given to the imposition of stricter noise control conditions, if representations are received in areas with a concentration of residential property.
- 2.3.6 The Licensing Authority considers that these issues will be of less significance where proposed premises are not within 250 metres of any residential property.
- 2.3.7 The Licensing Authority will expect premises to be cleared of patrons within a reasonable time of the terminal hour set for the premises. Applicants should state in their operating schedule the time they require to clear the premises. In normal circumstances, this will not exceed 30 minutes from the last sale of alcohol. Where the applicant can show that an extended period would assist in the promotion of the licensing objectives, the Council will consider permitting longer than 30 minutes.
- 2.3.8 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons for restricting those hours. An example would be where the Police make representations that the premises are a focus of disorder and disturbance.

## 2.4 Maximum Capacities

- 2.4.1 The type of entertainment offered on licensed premises and the closing hour of premises permitted to provide alcohol to the public often have a direct link to crime and disorder, public nuisance and public safety issues. For example, there is generally more likelihood of crime and disorder and public safety problems occurring in a music and dance venue permitted to sell alcohol and open until 3 am than there is in a well managed public house located in a quiet back street that provides limited regulated entertainment and closes at 11 pm.
- 2.4.2 The Licensing Authority believes that some of the problems that may occur in late night licensed premises may be controlled by good management practices. However, controlling the numbers of customers allowed into the premises will also assist in promoting the following three licensing objectives:
- **the prevention of crime and disorder**
  - **public safety**
  - **the prevention of public nuisance**

## 2.5 Late Night Refreshment

The Licensing Authority will expect applicants for licences in respect of late night refreshment premises to detail in their operating schedules how they intend to promote the licensing objectives and in particular how they intend to address queue management, litter and noise disturbance.

## 3.0 Licensing Approach

### 3.1 Partnership Working

- 3.1.1 The Council recognises that Licensing functions are not the only means of promoting the licensing objectives. Delivery must involve working in partnership with Planning, Environmental Health, the Police, the Fire Authority, the Crime and Disorder Reduction Partnership, the Town Centre Manager, Pubwatch, local businesses and residents, Somerset County Council, transport operators and those involved with child protection.
- 3.1.2 The Council recognises that co-operation and partnership remain the best means of promoting the licensing objectives.

### 3.2 Integrating Strategies

- 3.2.1 There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case the Council will aim, as far as possible, to coordinate them.
- 3.2.2 Cultural Strategy – The Council will monitor the impact of any decisions on the provision of regulated entertainment. The aim is not to deter live music, but to ensure that the licensing objectives are promoted. The Council will monitor the effect of licensing on the provision of regulated entertainment, particularly live music and dancing to ensure that any licensing conditions that impose any restrictions on such events are proportionate and reasonable.
- 3.2.3 Racial Equality – The Council is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The impact of these issues on the Licensing Policy will be monitored and amendments will be made as necessary.
- 3.2.4 Enforcement Policy – All licensing enforcement will be conducted in accordance with the Enforcement Concordat and the Environmental Health Enforcement Procedures.

### 3.3 Avoiding Duplication

- 3.3.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes such as health and safety at work, fire safety, building control and planning. Conditions will not be imposed if the matters concerned are already provided for in other legislation. However, other legislation may not always cover the unique circumstances that arise in connection with licensable activities and in such cases tailored conditions may be necessary but only if relevant representations are received.
- 3.3.2 Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether or not to grant a licence but only if relevant representations are received.

### 3.4 Vicinity

- 3.4.1 The term “vicinity” is used in the Act on a number of occasions and, in particular, with reference to those “interested parties” who may lodge objections to applications for premises licences and who may make representations concerning existing premises licences. The Act defines an “interested party” as being “a person living in the vicinity, a body representing persons living in

the vicinity, a person involved in a business in the vicinity or a body representing those persons”.

However, the Act does not define the term “vicinity”.

- 3.4.2 The Licensing Authority has decided that in order to assist applicants and residents it would be helpful to provide guidance as to how it will approach the meaning of the term “vicinity.” The Licensing Authority will normally treat the term “vicinity” as meaning within a 100 metre radius of the premises in question. However it is open to an applicant to argue that, in particular instances, an objection from an “interested party” within this radius is not relevant, for example, where a major traffic route lies between the resident and the premises and noise from the premises is highly unlikely to affect the resident. It is also open to an “interested party” located outside of this radius to argue that a representation is valid, for example, where the resident lives on the route from the premises to bus stops or main taxi ranks.

### 3.5 Conditions

- 3.5.1 Conditions may only be attached if relevant representations are received, any such conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned.
- 3.5.2 However, where it is considered necessary to promote one or more of the licensing objectives the Licensing Authority will consider attaching conditions, if relevant representations are received, drawn from the Pool of Model Conditions set out in Revised Secretary of State's Guidance. This list is not exhaustive and additional conditions may be attached to any licence or authorisation. If a representation is received.

### 3.6 Enforcement

- 3.6.1 The Council is a signatory to the Enforcement Concordat and will follow the principles set out in it or any successor published by the newly formed Local Better Regulation Office.
- 3.6.2 The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and any licence conditions. It will also be important to monitor the District for unlicensed activities that require a licence.
- 3.6.3 The Licensing Authority has established protocols with Avon and Somerset Police Authority, Somerset County Council Trading Standards and Devon and Somerset Fire Authority on enforcement issues to ensure an efficient deployment of Police and Council Officers.

### 3.7 Live Music, Dancing and Theatre

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



## 4.0 Administrative Issues

### 4.1 Temporary Event Notices

- 4.1.1 The Act states that the organiser of a Temporary Event must give the Licensing Authority a minimum of 10 working days' notice. However, in a significant number of cases this time period would not allow enough time for the organiser to liaise with the fire authority, the police and the relevant Council officers to ensure that the event passes off safely with minimum disturbance to local residents.
- 4.1.2 The Licensing Authority recommends that the Licensing Authority and the Avon and Somerset Police receive Temporary Event Notices at least 28 days before the planned event.

### 4.2 Applicants for Personal Licences

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

### 4.3 Large Scale Events

Large Scale events of a temporary or more permanent nature will generally require detailed planning and more consultation with responsible Authorities and possibly representatives of other organisation concerned with safety. For such events it is therefore recommended that applicants for large scale events follow the procedure as detailed in Large Scale Event Procedure which can be seen at

[www.tauntondeane.gov.uk/tdbcsites/envh/eh\\_lic\\_2003/largeevents.asp](http://www.tauntondeane.gov.uk/tdbcsites/envh/eh_lic_2003/largeevents.asp)

a hard copy of the document can be obtained by requesting a copy in writing to The licensing Unit, The Deane house, Belvedere Road. Taunton. TA11HE.

### 4.4 Reviews of Licence or Club Premises Certificate

- 4.4.1 The Licensing Act details that; where a premises licence or club premises certificate has effect, an interested party or a responsible authority may apply to the relevant licensing authority for a review of the licence. The relevant licensing authority may, at any time, reject any ground for review specified in an application under this section if it is satisfied that the ground is not relevant to one or more of the licensing objectives, or in the case of an application made by a person other than a responsible authority, that the ground is frivolous or vexatious, or the ground is a repetition.
- 4.4.2 The Licensing Authority can on review of licence or certificate, revoke the licence or certificate, suspend the licence or certificate, remove the DPS, reduce hours or licensable activity or add conditions to the licence or certificate.
- 4.4.3 The Licensing Authority recommends that Persons or Bodies considering seeking a review should discuss the matter with the Licensing Unit to discuss possible alternatives and to ascertain the correct procedure.

### 4.5 Administration, Exercise and Delegation of Functions

- 4.5.1 The Council has a Licensing Committee, consisting of 15 elected members, to carry out its licensing functions and to make licensing decisions, except those functions relating to the making of a statement of licensing policy.



- 4.5.2 In the interests of speed, efficiency and cost-effectiveness the Committee will delegate certain decisions and functions to sub-committees and officers.
- 4.5.3 For example, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate or Police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers.
- 4.5.4 The following table sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers.
- 4.3.5 This scheme of delegation does not prevent the referral of matters to a higher authority if considered appropriate in the circumstances of any particular case.

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

## APPENDIX A

### GLOSSARY OF TERMINOLOGY

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

Operating Schedule	<p>means a document that must be prepared by or on behalf of an applicant for a premises licence or club premises certificate containing a statement including the following matters:</p> <ul style="list-style-type: none"> <li>• the relevant licensable activities</li> <li>• the times at which licensable activities are to take place and any other times the premises are to be open to the public</li> <li>• information about the Designated Premises Supervisor</li> <li>• whether any alcohol sales are on and/or off sales</li> <li>• the steps being taken to promote the licensing objectives.</li> </ul>
Personal Licence	authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence.
Premises Licence	authorises the premises to be used for one or more licensable activity.
Provision of late night refreshment	<p>is defined as the provision of hot food or hot drink to members of the public, or a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am</p> <p>or</p> <p>at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.</p>
Regulated Entertainment	<p>is defined as:</p> <ul style="list-style-type: none"> <li>(a) a performance of a play</li> <li>(b) an exhibition of film</li> <li>(c) an indoor sporting event</li> <li>(d) a boxing or wrestling entertainment</li> <li>(e) a performance of live music</li> <li>(f) any playing of recorded music</li> <li>(g) a performance of dance</li> <li>(h) entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).</li> <li>(i) Entertainment Facilities. This definition is subject to Part 1 of Schedule 1 to the Licensing Act 2003 (interpretation).</li> </ul>
Responsible Authority	<p>is defined as:</p> <ul style="list-style-type: none"> <li>(i) Chief Officer of Police for any Police area in which the</li> </ul>

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