

Professional Opinion of the Specialist in respect of points raised by the Police and British Beer & Pub Association.

Police: What are the “established protocols” you have with Police that you refer to in section 3.5.3. Is it such that you would take on any prosecutions for us as the Licensing Authority as is the case with other Authorities in the A&S Area?

The only document protocols that exist are the memorandum of understanding (MoU) which the licensing authority and police have jointly committed to. This covers the following key principals:

- To work together in a positive and effective partnership;
- To jointly promote the four licensing objectives;
- To carry out their joint responsibilities in compliance with, and under the terms of, the Licensing Act 2003 and relevant Home Office Guidance;
- To practice a shared interpretation of the legislation and present unified front to applicants and the public;
- To understand, respect, and consider each other’s individual priorities and requirements;
- To share information and intelligence;
- To maintain a relationship based upon trust and mutual respect.

Where enforcement is concerned, the MoU states: ‘Effective enforcement relies heavily on partnership working. We recognise the importance of ensuring a consistency of approach and effective use of resources by targeting those premises where problems have occurred. We will work together proactively to ensure that enforcement is proportionate, and that support and education is given where necessary, but that firm action is taken against irresponsible licensees by joint working. Together we will develop written enforcement protocols that jointly tackle what is important to our organisations and communities without significantly impacting on the local economy.’

There may be occasions where circumstances dictate that the licensing authority is better suited to pursuing formal action against a person or body who has committed an offence, even though the offence has been identified by the Police. However, this would be determined by the licensing authority on a case by case basis, taking into account all of the available evidence and providing the licensing authority is satisfied taking formal action would be consistent with the councils own enforcement policy.

Police: I think it would be useful to include all of the other Legislation which is applicable as I think it important that applicants are aware and able to consult other legislation to avoid duplication.

The second draft now includes references to the need to satisfy planning and food hygiene legislation, which are council functions for which there is information on the SWT website to which those reading the SOLP are signposted.

Where other legislation is concerned however, I remain unconvinced that there is much to be gained from simply listing the names of other pieces of relevant legislation, as they can be, to the unfamiliar, complex and confusing, especially when not all of a particular Act is relevant.

Police: Finally, please could you give consideration to including “where there is a need to include a provision of a CCTV Surveillance system in order to promote the licensing objectives when a) offered in the Operating Schedule or b) by agreement with the Police or applied by a Licensing Panel an expectation that the system meets the Avon & Somerset Constabulary Operational Requirement and Home Office Guidance.” Or something similar?

The second draft now includes a section on CCTV and signposts applicants to the Home Office guidance and Avon & Somerset Constabulary’s own guidance. It also states that the licensing authority may refer to this guidance when making a decision and is applying a condition to a licence. The word ‘may’ has been used instead of ‘will’ however, as it is important that the licensing authority, when making a decision, uses conditions that are both proportionate and ‘...appropriate for the promotion of the licensing objectives in an individual case’ (para 1.16 of [the Home Office guidance](#).)

British Beer & Pub Association: Paragraph 2.4.4 – We would suggest that the Council reiterate their guarantee to evaluate each application on its individual merit. We would also suggest that promoting establishments at which alcohol consumption is not the primary activity should not place licensee applications for pubs, or any establishment where alcohol consumption *is* the primary activity, at any disadvantage. The vast majority of pubs are well-run businesses where alcohol can be bought and consumed in a socially responsible environment, and we would not wish to see pubs penalised due to a generic classification.

There are plenty of references already within the draft SOLP to decisions being made based on the individual merits of a case.

British Beer & Pub Association: Section 2.5 – we would suggest that maximum capacities be evaluated on individual merit and may not necessarily assist, or may even hinder, promoting the licensing objectives listed.

Paragraph 2.5.3 already makes it clear that capacities will be used when appropriate and proportionate in an individual case.

British Beer & Pub Association: Paragraph 2.5.1 & 2.5.2 – we would suggest this paragraph be better placed in section 2.4 and/or 2.6, and that queue management may be better addressed under section 2.5.

There would appear to be little, if anything gained, from moving these references.