



**Portsmouth**  
CITY COUNCIL

## **LICENSING ACT 2003**

### **SECTION 5**

# **STATEMENT OF LICENSING POLICY**

This statement of licensing policy will remain in force from 7 January 2011 until 06 January 2014

**PROPOSED FINAL VERSION 5**

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## 1.0 Licensing Objectives

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- 1.1 Portsmouth City Council is the Licensing Authority for the Licensing Act 2003 (“the Act”) for the administrative area of Portsmouth as shown on the map at Appendix A. Any references to “the Licensing Authority” in this document refers to Portsmouth Licensing Authority.
- 1.2 When carrying out its functions under the Act, the Licensing Authority will promote and have regard to the licensing objectives set out in the Act. These are:
- **The prevention of crime and disorder;**
  - **Public safety;**
  - **The prevention of public nuisance; and**
  - **The protection of children from harm.**
- 1.3 Each objective is of equal importance.

## 2.0 Background information about Portsmouth

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- 2.1 The City of Portsmouth is situated in the ceremonial County of Hampshire which contains 11 District Councils in total. It is at the heart of Britain’s southern coastline, with long established direct rail and road links to London, the Midlands and Wales and close to three international airports.

Portsmouth is undergoing rapid change, growing in confidence and developing a renewed sense of itself. As the UK’s only island city, this waterfront city combines centuries of maritime history with an attractive contemporary lifestyle.

A significant naval port for centuries, it is home to the world's oldest dry dock, which is still in use today, and to world-famous historic ships, including Admiral Lord Nelson’s flagship, HMS Victory, HMS Warrior 1860 and King Henry VIII’s Mary Rose. Now new investment around the harbour has transformed the waterfront and attracts generations of new visitors to the city. In recent years the city has hosted major international events including the International Fleet Review and in 2005 the events to mark 200 years after the Battle of Trafalgar. Portsmouth is also fast becoming the home of ocean racing, hosting the Global Challenge yacht race in 2004/5 and in 2006 the city is the only UK port chosen to host the Volvo Ocean Race.

The Spinnaker Tower at Gunwharf Quays opened in 2005 and is a new icon for the city and the south coast. At 170 metres high, it has already changed the skyline forever and provides an unparalleled view of Portsmouth and the surrounding area from its three observation decks.

This dynamic waterfront city still has an important role as a major dockyard and home base for the Royal Navy. BAE Systems has brought shipbuilding back to the city and in 2006 HMS Clyde was the first ship launched here for 40 years. The

council-owned commercial port also continues to thrive and serves more destinations on the continent with freight and passenger traffic than any other UK port.

Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.

Portsmouth offers a vibrant mix of entertainment facilities for residents and visitors alike. This ranges from theatres, restaurants, cinemas and concert venues to club premises, bars, nightclubs and pubs in various locations around the city. The provision of such facilities contributes much to the growth of the local economy for Portsmouth and offers an important role for employment within the city.

### 3.0 Consultation on the Statement of Licensing Policy

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- 3.1 Section 5 of the Act requires a Licensing Authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act.
- 3.2 During the three year period, the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.
- 3.3 The first statutory three year period began on 7 January 2005. Subsequent three year periods, eg. Beginning 7 January 2008 etc, are fixed and would not be altered by any other revisions that the Licensing Authority may choose to make within a period, or by any determination of a new policy.
- 3.4 This policy will commence on 7 January 2011 and remain in force for three years but will be kept under review subject to further consultation as referred to above.
- 3.5 Where revisions are made to the Statutory Guidance by the Secretary of State, it will be for the Licensing Authority to determine whether revisions to its licensing policy statement are appropriate.
- 3.6 Where the Licensing Authority determines a new policy that will apply from the beginning of the next three year period it may also decide that any changes should also apply immediately as a revision to the current policy. However, to do so, the Licensing Authority would have to be very clear at the time of consultation that the proposed changes were intended to constitute both the new policy for the next three year period and apply in the interim as a revision to the existing policy.
- 3.7 The longer the time between the consultation and the start of the next three year period, the less likely it is that the Licensing Authority could rely on it for that purpose without consulting again.

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- 3.8 Before determining its policy for any three year period or if revising a policy within a period, the Licensing Authority must consult the persons listed in section 5(3) of the Act. These are:
- The chief officer of police for Hampshire Constabulary;
  - The chief officer of Hampshire Fire and Rescue Service;
  - 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; and
  - Persons/bodies representative of businesses and residents in its area.
- 3.9 The views of all these persons/bodies listed shall be given appropriate weight when the policy is determined. It is recognised that in some areas it may be difficult to identify persons or bodies that represent all parts of the industry affected by the provisions of the Act but the Licensing Authority will make all reasonable efforts to do so.
- 3.10 The Licensing Authority is aware that the terms of the Act do not prevent them consulting other bodies or persons before determining its policy.
- 3.11 In circumstances where the Licensing Authority has recently revised its policy within a three year period following a consultation exercise it may not consider that further changes are necessary when determining the policy for the next three year period. As such, it may decide on a simple consultation with those persons listed in section 5(3) of the Act.
- 3.12 When carrying out its functions the Licensing Authority shall have regard to its Statement of Licensing Policy and the Statutory Guidance issued by the Secretary of State. However, this Policy and the Guidance cannot anticipate every set of circumstances which may arise. Accordingly, the Licensing Authority may depart from them if they have reason to do so. In that event, the Licensing Authority will give full reasons for having done so.
- 3.13 Further advice can be obtained from:

The Licensing Manager  
**Legal, Licensing & Registrars**  
Civic Offices  
Guildhall Square  
Portsmouth  
Hants PO1 2AL  
Tel: 023 9283 4607 Fax: 023 9283 4811  
Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)

## 4.0 Fundamental principles

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- 4.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Statutory Guidance issued under section 182 of the Act by the Secretary of State. This policy should be read as a whole and in

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conjunction with the Act and the Statutory Guidance which is obtainable online at <http://www.homeoffice.gov.uk/publications/alcohol/guidance-section-182-licensing>.

- 4.2 This statement is intended to assist officers and members in determining applications and to set down those factors that will normally be taken into consideration. Equally, this document seeks to provide clarity for applicants, residents and other occupiers of property and investors, in order to enable them to plan a move to, remain or invest in the City with some measure of certainty.
- 4.3 This policy sets out a general approach to making licensing decisions and it will not ignore or be inconsistent with provisions in the Act. It will not undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 4.4 Similarly, it will not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 4.5 **The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.**
- 4.6 Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.7 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of the overall approach to the management of the evening and night-time economy in town and city centres.

## 5.0 Licensable activities

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- 5.1 The Licensing Authority is responsible for considering all applications for licensable activities as defined in Section 1 of the Act.
- 5.2 The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events.

Licensable activities are:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;

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- The provision of regulated entertainment; and
- The provision of late night refreshment.

5.3 Subject to certain conditions, definitions and exemptions contained in sections 173-175 of the Act, the provision of regulated entertainment for the public, or club members or with a view to profit, is defined as:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment (indoor and outdoor);
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music or the performance of dance; or
- Provision of facilities for making music or the provision of facilities for dancing or entertainment of a similar kind.

5.4 Late night refreshment, which is subject to certain exemptions, is defined in Schedule 2 of the Act and relates to the supply of hot food or drink to members of the public on or from any premises for consumption on or off the premises between the hours of 23:00 and 05:00.

5.5 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the Act in certain circumstances. In cases of doubt, operators should seek the advice of the Licensing Authority.

## 6.0 Duplication

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6.1 The Licensing Authority will seek to avoid attaching conditions that duplicate other regulatory regimes as far as possible.

6.2 However, these provisions will not always adequately address specific issues that arise on the premises in connection with certain types of licensable activities. Therefore it may be necessary for the Licensing Authority to consider the imposition of conditions, if not volunteered by the applicant in their operating schedule and following relevant representations, if they are considered necessary for the promotion of the licensing objectives and are not already provided for in any other legislation.

## 7.0 Standardised conditions

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7.1 Where responsible authorities and interested parties do not raise any representations about the application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are

consistent with the operating schedule and any mandatory conditions prescribed in the Act itself.

- 7.2 A key concept underscoring the Act is for conditions to be tailored to the specific premises concerned. This **effectively** rules out standardised conditions which ignore these individual aspects. The Licensing Authority recognises that conditions must be proportionate and properly recognise significant differences between venues.
- 7.3 The Licensing Authority will not impose any conditions unless its discretion has been engaged following the receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It will then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions will need to be expressed in unequivocal and unambiguous terms to avoid legal dispute.
- 7.4 It is possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.
- 7.5 The Licensing Authority wishes to work in partnership with all parties to ensure that the licensing objectives are promoted collectively. To support this aim and to minimise disputes and the necessity for hearings, the Licensing Authority believes it would be sensible for applicants to seek the views of the key responsible authorities before formally submitting applications but wish to point out that there is no legal requirement to do so.
- 7.6 Whilst the Licensing Authority will not use standardised conditions, it may draw from a pool of conditions where it is appropriate to do so and which will be based on the model pool of conditions contained within the Statutory Guidance. Applicants and others may also wish to refer to these conditions as appropriate.

## 8.0 Mandatory Conditions

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- 8.1 By virtue of new provisions within the Policing & Crime Act 2009, the Licensing Act 2003 has been amended by statutory order to provide for the imposition of further mandatory conditions for those premises authorising the sale or supply of alcohol *on the premises*. Five new conditions have now been prescribed under the 2010 Order.

From 6 April 2010 the following additional conditions apply to current authorisations:



### 8.2 Irresponsible drink promotions

Responsible persons<sup>1</sup> shall take all reasonable steps to ensure that staff do **NOT** carry out, arrange or participate in any irresponsible promotion encouraging the sale or supply of alcohol for consumption on the premises, which carries a significant risk of leading or contributing to:

- Crime and disorder
- Prejudicing public safety
- Causing a public nuisance
- Causing harm to children

(The above are the statutory licensing objectives).

### 8.3 The types of activities that might lead to a breach of the licensing objectives are:

- Games encouraging individuals to drink alcohol either within a time limit or to drink as much as possible;
- The provision of unlimited quantities of alcohol either free or at fixed/discounted prices to the public or to a group (with an exemption for alcohol consumed at a table meal);
- provision of free/discounted alcohol as a prize to “reward” the purchase of alcohol over a period of 24 hours or less;
- provision of free/discounted alcohol in relation to the viewing of a sporting event where the provision is dependent on the outcome of a race, competition etc;
- alcohol sales associated with promotional posters/flyers, which condone antisocial behaviour or drunkenness.

### 8.4 Dispensing of alcohol direct by one person into the mouth of another

*(Note: There is an exemption for persons being unable to drink without assistance by reason of disability).*

### 8.5 Provision of free tap water on request

*(Note: Where reasonably available).*

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In section 153(4) of the Licensing Act 2003, “responsible person” means:

(a) In relation to licensed premises:

- (i) the holder of a premises licence in respect of the premises;
- (ii) the designated premises supervisor (if any) under such a licence; or
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor.

(b) 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 enables him to prevent the supply in question.

*Note: (c) refers to permitted temporary activities and is not relevant for these purposes.*

8.6 From **1 October 2010** the following further mandatory conditions apply:

### 8.7 **Age verification policy**

Any person who appears to be under 18 must produce, on request (and before being served alcohol) identification bearing their photo, date of birth and a holographic mark.

*(Note: This condition applies also to those premises which permit the sale or supply of alcohol for consumption off the premises.)*

### 8.8 **Alcoholic drinks in certain measures**

Responsible persons must ensure that customers are made aware of the availability of alcoholic drinks in other prescribed measures as shown:

- beer or cider; half pint
- gin, rum, vodka or whisky; 25ml or 35ml
- still wine in a glass; 125ml

8.9 The above information provided in relation to the new mandatory conditions is only intended to be a summary of the main provisions and therefore applicants and licence holders should refer to the Act and the current statutory guidance issued by the Secretary of State. In addition, the Home Office has published non-statutory guidance which is available at <http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licensing-conditions/>

8.10 The Licensing Authority expects that applicants, licence and certificate holders will familiarise themselves with the new provisions and will ensure that all relevant staff are provided with adequate training and support as regards the new arrangements.

## 9.0 **Enforcement**

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9.1 The Licensing Authority will establish protocols with the local police and the other enforcing authorities as appropriate on enforcement issues.

9.2 These protocols will provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch for low risk premises which are well run.

9.3 The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if they are judged necessary.

9.4 The Licensing Authority will maintain close links with the police, trading standards officers and other relevant organisations concerning the extent of unlawful sales and consumption of alcohol by minors and will seek to be involved in the development of any strategies to control or prevent unlawful activities.

- 9.5 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 9.6 From time to time and when judged necessary to do so, authorised officers of the Licensing Authority and responsible authorities will undertake unannounced inspections or test purchase visits to licensed premises in order to ensure compliance with the provisions of the Licensing Act 2003 and any other associated legislation.
- 9.7 The Licensing Authority will receive, from time to time, reports from its officers on any formal enforcement proceedings instigated against licence holders in relation to offences under the Act.

### **10.0 Need for licensed premises**

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- 10.1 The Licensing Authority is aware that there can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its licensing policy. “Need” is a matter for the Planning Authority and for the market.

### **11.0 The cumulative impact of a concentration of licensed premises**

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- 11.1 “Cumulative impact” is not mentioned specifically in the Act but, in accordance with the Statutory Guidance, means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority to consider in developing its licensing policy statement.
- 11.2 In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the

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customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to occur in town and city centres, but may also arise in other urban centres and the suburbs.

- 11.3 The Licensing Authority recognises that there should be an evidential basis for the decision to include a special policy within the statement of licensing policy. For example, Crime and Disorder Reduction Partnerships will often have collated information which demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevention strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.
- 11.4 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below:
- Identify concern about crime and disorder or public nuisance;
  - Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
  - Identify the boundaries of the area where problems are occurring;
  - Consult with those specified in section 5(3) of the Act, and subject to the outcome of the consultation;
  - Include and publish details of special policy in licensing policy statement.
- 11.5 After considering the available evidence and consulting those individuals and organisations mentioned above and any others, the Licensing Authority may be satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement.
- 11.6 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 11.7 This presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the Licensing Authority when it developed its statement of licensing policy, before a Licensing Authority may lawfully consider giving effect to its special policy. If there are no representations, the Licensing Authority must grant the application in terms that are consistent with the operating schedule submitted.

- 11.8 Once adopted, special policies shall be reviewed regularly to assess whether they are needed any longer or need expanding.
- 11.9 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

## 12.0 Limitations on special policies relating to cumulative impact

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- 12.1 It is not normally justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises. **However, if consideration is to be given by the Licensing Authority to including such premises within a special policy, then that policy will highlight those specific problems relating to the impact of off licence premises which may include such matters as underage sales, proxy purchasing, street drinking and “pre-loading”.**
- 12.2 A special policy shall never be absolute. The circumstances of each application shall be considered properly and applications for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives will be granted.
- 12.3 After receiving representations in relation to a new application for or a variation of a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.
- 12.4 The Licensing Authority will not use special policies:
- As a ground for revoking an existing licence or certificate when representations are received about problems with those premises -

*The “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review of a licence or certificate must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary;*

- To justify rejection of applications to vary an existing licence or certificate -

*Except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives;*

- To justify or include provisions for a terminal hour in a particular area –

*For example, it would be wrong not to apply the special policy to applications that include provision to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. Terminal hours dictated by the Licensing Act 1964 were abolished to avoid the serious problems that arise when customers exit licensed premises simultaneously. Attempting to fix a terminal hour in any area would therefore directly undermine a key purpose of the 2003 Act.*

- To impose quotas – based on either the number or capacity of those premises – that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas –

*Quotas that indirectly have the effect of pre-determining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard should be given to those differences and the differing impact they will have on the promotion of the licensing objectives.*

### 13.0 Special policy relating to cumulative impact in Portsmouth

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- 13.1 Having regard to the evidence currently available, the Licensing Authority considers that there is one specific area of Portsmouth where it is both appropriate and necessary to introduce a special policy in order to promote the licensing objectives. The area where this special policy will have effect is the Guildhall area as set out in the map and supporting information attached as Appendix B to this policy.
- 13.2 This special policy has specifically been re-evaluated in the Summer of 2010 as part of the overall review of the statement of licensing policy and the evidence provided by the Chief Officer of Police shows that violent crime offences associated with licensed premises are still at such a level to justify retention of the current special policy area.

- 13.3 The area to the North of Guildhall Walk has, since the Licensing Authority **originally** adopted a special policy relating to cumulative impact, seen an increase in licensed premises. This has brought about a resultant increase in violent crime within those areas.
- 13.4 The area to the south of Guildhall Walk, including St Michael's Road, Cambridge Road and Hampshire Terrace, contains several licensed premises and is located on the perimeter of the previous special policy area. Within this area are "feeder bars" for the main Guildhall Walk late night venues. The statistical data submitted by the Chief Officer of Police show that violent crime occurs within those areas and should form part of the special policy area.
- 13.5 The special policy applies to the following 12 roads:
- Alec Rose Lane;
  - Cambridge Road;
  - Commercial Road;
  - Guildhall Walk;
  - Hampshire Terrace;
  - King Henry 1<sup>st</sup> Street;
  - Stanhope Road;
  - St Michael's Road;
  - White Swan Road;
  - Willis Road; and
  - Wiltshire Street
- 13.6 The Licensing Authority, therefore, will normally refuse the grant of new premises licences or club premises certificates or variations whenever it receives relevant representations about the cumulative impact on the licensing objectives which it concludes after hearing those representations should lead to refusal.

## 14.0 Other mechanisms for controlling cumulative impact

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- 14.1 Once away from the licensed premises, a minority of customers will behave badly and unlawfully. Other mechanisms exist both within and outside the licensing regime that are available for addressing such issues that include:
- Planning controls;
  - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
  - The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;

- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question;
- Other local initiatives that similarly address these problems.

### 15.0 Licensing hours

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- 15.1 With regard to licensing hours, the Licensing Authority will consider the individual merits of each application.
- 15.2 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- 15.3 The Licensing Authority is aware that the Government wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists.
- 15.4 Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 15.5 However, in addition to the above statement, when considering applications, the Licensing Authority will take the following factors into account:
- Any cumulative impact policy;
  - Residential amenity and character or function of a particular area; and
  - Nature of proposed activities to be provided at the premises.

Consideration will be given to imposing stricter conditions in respect of noise control, if not volunteered by the applicant in their operating schedule and following



relevant representations, where premises are situated in mainly residential areas. However, this will not limit opening hours without regard to the individual merit of any application.

- 15.6 In general, shops, stores and supermarkets will be able 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, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

## 16.0 Children

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- 16.1 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police and other relevant agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 16.2 The Act made it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on the premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.
- 16.3 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5 am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice.
- 16.4 Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. Between 5 am and midnight, the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the Act.
- 16.5 It is not intended that the definition “exclusively or primarily” in relation to the consumption of alcohol should be applied in a particular way by reference to turnover, floor space or any similar measure. The expression should be given its ordinary and natural meaning in the context of the particular circumstances. It will normally be quite clear that the business being operated at the premises is predominantly the sale and consumption of alcohol. Mixed businesses may be harder to pigeonhole and it would be sensible for both operators and enforcement agencies to consult where necessary about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.

- 16.6 The fact that the new offence may effectively bar children under 16 accompanied by an adult from premises where the consumption of alcohol is the exclusive or primary activity does not mean that the Act automatically permits unaccompanied children under the age of 18 to have free access to other premises or to the same premises even if they are accompanied or to premises where the consumption of alcohol is not involved. Subject only to the provision of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Act includes on the one hand, no presumption of giving children access or on the other hand, no presumption of preventing their access to licensed premises. Each application and the circumstances obtaining at each premises must be considered on its own merits.
- 16.7 The Licensing Authority therefore, will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. This Statement of Licensing Policy cannot anticipate every issue of concern that could arise in respect of children in relation to individual premises and as such general rules cannot be set. Consideration of the individual merits of each application will remain the best mechanism for judging such matters.
- 16.8 However, areas which will give rise to particular concern in respect of children will include premises:
- Where entertainment or services of an adult or sexual nature are commonly provided;
  - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
  - With a known association with drug taking or dealing<sup>2</sup>
  - When 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); and
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 16.9 In the context of the above paragraph, it is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sex acts or fetishism, or entertainment involving strong and offensive language.

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<sup>2</sup> Following its commencement on 20<sup>th</sup> January 2004, a new power is available under the Anti-Social Behaviour Act 2003 to close premises where there is the production, supply or use of Class A drugs and serious nuisance or disorder. This power provides an extra tool to the police to enable rapid action against a premises where there is a Class A drug problem, enabling its closure in as little as 48 hours should this be necessary

16.10 The Licensing Authority may consider a range of alternatives available for limiting the access of children where that is necessary for the prevention of harm to children. These, which can be adopted in combination, include:

- Limitations on the hours when children may be present;
- Limitations excluding the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including, for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

16.11 Conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club or person who as given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Licensing Authority, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the Licensing Authority in these circumstances.

16.12 A child is any person under the age of 18 years unless otherwise stated.

## 17.0 Responsible authority and children

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17.1 The Licensing Authority has determined that the Directorate of Children, Families and Learning is the body that is competent to act as the responsible authority in relation to the protection of children from harm.

## 18.0 Children and cinemas

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18.1 In the case of premises giving film exhibitions, the Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the

recommendations of the British Board of Film Classification (“BBFC”) or the Licensing Authority itself using the BBFC film classification categories.

- 18.2 The Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 – the BBFC is the only body which has been so designated – or by the Licensing Authority itself.

## 19.0 Integration of strategies

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- 19.1 The Licensing Authority will secure the proper integration of its Statement of Licensing Policy with local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies together with any other plans introduced for the management of town centres and the night-time economy. Whilst many of these strategies are not directly related to the promotion of the four licensing objectives, they indirectly impact upon them. The Licensing Authority recognises the importance of co-ordination and integration of such policies, strategies and initiatives.
- 19.2 **The Licensing Authority recognises the connection between excessive alcohol consumption, poor health and cost to the Health Authority. As part of a wider package of initiatives the Council is aiming to deal with the negative effects of alcohol consumption through its Alcohol Strategy.**

## 20.0 Crime prevention

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- 20.1 Conditions that are attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of CCTV cameras in certain premises. Where appropriate, and in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime, the Licensing Authority shall work together with the Safer Portsmouth Partnership (SPP) to achieve these outcomes.

## 21.0 Cultural strategies

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- 21.1 The Licensing Authority will have regard to the cultural strategy of Portsmouth City Council and will monitor the impact of licensing on the provision of regulated entertainment, in particular, live music and dancing. Part of the implementation of the Council’s cultural strategy is to take account of the need to encourage and promote a broad range of entertainment.
- 21.2 The Licensing Authority will ensure that only necessary, proportionate and reasonable licensing conditions will be imposed that restrict these events. Where there is any indication that events are being deterred by licensing requirements, the

Licensing Authority may re-visit its policy with a view to investigating how the situation might be reversed.

### 22.0 Transport

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22.1 In order to disperse people from the city centre swiftly and safely to avoid concentrations which produce disorder and disturbance, the Licensing Authority will liaise with the police and other statutory agencies responsible for transportation and associated matters and will provide reports to the Traffic and Transportation Executive to assist in the formulation and development of their policies. The Licensing Authority may also liaise with suppliers of public transport such as bus companies, taxi proprietors, private hire operators and their appropriate trade organisations.

### 23.0 Tourism and employment

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23.1 The Licensing Committee shall receive, when appropriate, reports on the needs of the local tourist economy to ensure that these are taken into account in their considerations.

23.2 The Licensing Committee shall be kept apprised of the local employment situation and, where appropriate, the need for new investment and employment.

### 24.0 Planning and Building Control

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24.1 Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency.

24.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

24.3 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications shall not be a re-run of the planning application and will not cut across decisions taken by the **Planning Committee** or following appeals against decisions taken by that committee. The Licensing Committee are not bound by decisions made by the **Planning Committee**, and vice versa.

24.4 The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building will not relieve the applicant of the need to apply for planning permission or building control where appropriate.

- 24.5 In circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes **and** where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission will be liable to prosecution under planning law.
- 24.6 **Officers from planning and licensing services will regularly share intelligence information and will provide evidence to the appropriate regulatory authority where it is considered that premises are operating in breach of either their planning permission or in contravention of conditions attached to authorisations.**
- 24.7 Proper integration will be assured by the Licensing Committee and where appropriate may provide regular reports to the **Planning Committee** on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would be to enable the **Planning Committee and/or its officers** to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 24.8 **In order to ensure the proper integration of strategies dealing with licensed premises, specifically those operating within the night-time economy or cumulative impact area, the Planning Authority will consult with the Licensing Authority in respect of all planning applications associated with A3, A4 and A5 uses in so far as they relate to any of the licensing objectives.**
- 24.9 The Planning Authority may also make representations as a responsible authority as long as they relate to the licensing objectives. **The Licensing Authority recognises that nuisance and crime and disorder are matters that share common ground within the planning and licensing regimes. However concerns relating to the character and function of an area and aspects of amenity that do not constitute a public nuisance are outside the scope of the licensing regime and will be dealt with separately by the Planning Authority. The Licensing Authority therefore recognises that a combination of licensing and planning powers together with effective management of the street environment is required to overcome these problems.**

## 25.0 Promotion of racial equality

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- 25.1 The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities 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.

## 26.0 Live music, dancing and theatre

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- 26.1 As part of implementing local authority cultural strategies, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities.

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A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly those for children.

- 26.2 In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature.
- 26.3 To ensure that cultural diversity thrives, Portsmouth City Council has obtained premises licences for numerous public spaces within the Portsmouth area so that performers and entertainers have no need to obtain a premises licence or give a temporary event notice for types of regulated entertainment. However, permission will still be required from the local authority for entertainment that is proposed to be provided in these areas.
- 26.4 DCMS has established a Register of Local Authority Licensed Public Spaces in England and Wales. This is to help event organisers and touring entertainment providers determine whether their event could take place in a particular local authority area without the need for a separate authorisation. It also directs them to the appropriate person to find out more information and to obtain permission to use the space. The Register and further details are available on the DCMS website [www.culture.gov.uk](http://www.culture.gov.uk).
- 26.5 The Violent Crime Reduction Act 2006 amends the Criminal Justice and Police Act 2001 to clarify when and where a Designated Public Places Order (DPPO) would apply. The effect of the amendment is that where a local authority occupies or manages premises, or where premises are managed on its behalf, and it licences that place for alcohol sales, the DPPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the DPPO at all other times. This allows local authorities to promote community events whilst still using DPPOs to tackle the problems of anti-social drinking.
- 26.6 When one part of a local authority seeks a premises licence of this kind from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the Committee. Anyone making a representation who is genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority would be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision.

## 27.0 The licensing process and applications

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- 27.1 The Licensing Authority will expect applicants for licences to show in their operating schedule what steps they will take to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and needs of the local community.

- 27.2 Applicants are strongly advised to make themselves aware of any relevant planning and transportation policies, local crime prevention strategies, tourism and cultural strategies and take these factors into consideration, where appropriate, when formulating their operating schedule.

### **Temporary Event Notices**

- 27.3 Organisers of large events (in particular major festivals and carnivals) or temporary events are strongly advised to contact the Licensing Authority and responsible authorities at the earliest opportunity to discuss licensing matters and to provide as much advance notice as is reasonably practical. Whilst the Act dictates that any Temporary Event Notice (TEN) must be given to the Licensing Authority no later than 10 working days before the day on which the event period begins, in some cases this time period would not allow enough time for the premises user to liaise with the relevant authorities (ie, Police, Fire, Public Protection) to ensure that the event passes off safely and with minimum disturbance to local residents. In such cases it is recommended that premises users should give at least 20 working days notice of such events.
- 27.4 Whilst the Licensing Authority recognises that it cannot attach any terms, limitations or restrictions on the carrying on of licensable activities at such events provided under the authority of a TEN and that only the police can serve a counter notice in those circumstances where they are satisfied that the crime prevention objective would be undermined, it will notify the Head of Public Protection of every TEN received, and also other responsible authorities where merited, for information purposes only. This is because the Public Protection Service may have concerns regarding the event which they may seek to address through other mechanisms. The responsible authorities may also wish to offer, where appropriate, advice regarding matters which will include proper regard for the concerns of local residents, other legislative requirements regarding health and safety, noise pollution, erection of temporary structures, other permissions such as road closures or use of pyrotechnics in public places, having regard to local byelaws and the need to prevent anti-social behaviour by those attending such events.

### **Prevention of crime and disorder**

- 27.5 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Licensing Authority recognises the concerns of the police in respect of extended hours and licence holders need to consider the increased responsibility and accountability that is required in order to promote the licensing objectives. The Licensing Authority will expect operating schedules to satisfactorily address these issues when considering the design of the premises and throughout the daily operation of the business.
- 27.6 The Licensing Authority may, after receiving relevant representations, give consideration to attaching conditions to licences to prevent crime and disorder from occurring both inside and immediately outside the premises, and these may include conditions drawn from the model pool of conditions relating to crime and disorder



contained within the DCMS Guidance together with the consideration of other options such as a period of calming music, supply of food and non-alcoholic drinks.

- 27.7 Whenever any persons are employed at licensed premises to carry out any security activity, they must be licensed by the Security Industry Authority (SIA). The Licensing Authority may consider that certain premises require strict supervision for the purpose of promoting one or more of the licensing objectives. In such cases, if not volunteered by the applicant in their operating schedule and following relevant representations, the Licensing Authority may impose a condition that SIA licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 27.8 The Licensing Authority recognises that there is no obligation under the Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. However, when considering the times during which it is proposed that the relevant licensable activities are to take place, it would be helpful in terms of assisting in the management of the evening and late night economy if applicants limited such applications to the actual hours within which they have a reasonable expectation of operating.
- 27.9 Large capacity “vertical drinking” premises sometimes referred to as High Volume Vertical Drinking establishments (HVVDs) are premises with exceptionally high occupant capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no provision of seating for patrons. Where it is considered necessary and appropriate to do so and following representations concerning the promotion of prevention of crime and disorder at such premises (if not volunteered by the venue operator), the Licensing Authority may attach conditions to premises licences which require compliance with:-
- A prescribed capacity;
  - An appropriate ration of tables and chairs to customers based upon the capacity; and
  - The presence of SIA licensed security teams to control entry for the purpose of compliance with the capacity limit and to refuse entry to those individuals who appear drunk or disorderly or both.

### **Public safety**

- 27.10 The Act encompasses a wide range of premises that require licensing, which includes public houses, nightclubs, cinemas, concert halls, theatres, cafes/restaurants and fast food outlets/takeaways. Each of these types of premises presents a range of risks, with many common to most premises and others unique to specific operations. It is therefore essential that premises are constructed or adapted and operated so as to recognise and safeguard occupants against such risks.

27.11 It is essential that operating schedules satisfactorily address these issues and the Licensing Authority will expect the operating schedule to identify how the premises will be properly managed and maintained to ensure public safety at all times.

### Prevention of public nuisance

#### General

27.12 The Act requires the Licensing Authority (following receipt of relevant representations) and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, the Licensing Authority and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. **The Licensing Authority regards the control of noise, light, odour and litter as an essential aspect of good neighbourliness, contributing to the sustainability of residential and commercial communities.**

27.13 Public nuisance is given a statutory meaning in many pieces of legislation. It is, however, not narrowly defined in the Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the Act) in the vicinity of licensed premises.

**27.14 Public nuisance can arise from a number of sources which includes, but is not limited to:**

- Noise from music, singing and speech originating from inside a building.
- Noise from music, singing and speech originating from outside a building.
- Activity within gardens and play areas
- Rowdy behaviour
- Use of car parks and access roads
- Delivery/collection/storage activities
- Staff activity
- Cleaning/Wash-up activities
- Plant and machinery
- Licensed premises, especially those operating late at night and in the early hours of the morning, can give rise to a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

27.15 Historically, the primary cause of public nuisance from licensed venues has been regulated entertainment and the impact of loud music upon nearby residents. Whilst there is still the same level of nuisance occurring, improved liaison and cohesion between responsible authorities and strong enforcement of nuisance legislation, has to some extent, helped to address issues at an earlier stage. However other sources of nuisance have now replaced music as the principal source of complaint.

### **Smoking ban – associated noise issues**

27.16 As mentioned in paragraph 4.6 of this document, licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. This Statement of Licensing Policy builds on the previous statement to reflect the experience of the council in the three years since the ban on smoking in premises was introduced.

27.17 Since its introduction there has been an increase in the number of premises which have amended their operating practices to secure a facility for patrons to be able to smoke (other than inside the premises). Our experience suggests that whilst there is little non-compliance regarding smoke free premises there has been a displacement effect which has led to an increase in complaints regarding nuisance from outside areas. Officers are seeking to support licensees, residents and patrons equally whilst not adversely affecting the licensees' trading position or residents' enjoyment of their properties. In some cases this has prompted licensees to seek to vary licences, or apply for planning consent, to accommodate approved smoking shelters in beer gardens and other outside areas. It is preferable to contain the activities of patrons within the curtilage of the licensed premises by attaching conditions to the licence, where necessary.

There are however premises which do not have outside areas and patrons have to smoke outside on the highway which may give rise to public nuisance. Applicants should consider what steps they can take in order to promote the licensing objectives. Licensees are responsible for behaviour of patrons in the vicinity of their premises and failure to promote the licensing objectives could lead to a review of the licence or certificate.

27.18 Eating and drinking outdoors is increasingly popular, and together with the smoking ban, has increased the number of people outside premises. The noise of people socialising outdoors can cause public nuisance, even if they are not badly behaved. In addition, the blocking of footways, and more occasionally roadways, by people either standing about drinking and smoking or using tables and chairs has the potential to give rise to public nuisance.

### **Regulated Entertainment**

27.19 The Licensing Authority is concerned that licensed premises where musical or other amplified entertainment is provided may give rise to significant levels of noise nuisance particularly when they are structurally attached to noise sensitive

premises such as residential premises. The control of structure borne noise transmission can be hard to predict and difficult to control.

27.20 Where an application is made in relation to premises where residential or other noise sensitive premises are structurally attached, the Licensing Authority will expect the applicant to demonstrate that all reasonable steps have been taken to ensure that adequate protection against noise nuisance can be achieved. Financial prudence indicates that the potential of noise or other nuisance should be considered at an early stage so that applicants reduce to a minimum the likelihood of failed applications or costly remedial measures in the event of justifiable complaint. Applicants are therefore advised to consult the Good Practice Guide on the Control of Noise from Pubs and Clubs (March 2003) published by the Institute of Acoustics and available at [www.ioa.org.uk](http://www.ioa.org.uk) which contains useful advice for applicants and local authorities. The British Beer and Pub Association (BBPA) have also produced guidance which is available from their website at [www.beerandpub.com](http://www.beerandpub.com).

### Odour Nuisance

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

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

### Prevention of nuisance – Operating Schedule

27.22 The applicant's operating plan should identify and assess the potential risks of public nuisance arising from each part of the intended activity and set out the measures that they intend to take to minimize the risk to an acceptable level. These measures may include:

- **Restricting the type of musical entertainment provided**
- Layout of the premises or site (e.g. exit locations)
- Design of the building or site (e.g. sound insulation measures)
- Design of plant or equipment
- Provision of devices limiting noise levels
- Provisions to monitor noise
- Operational measures
- Management measures
- Measures to prevent the transmission of sound (e.g. acoustic barriers)
- Staff training
- Operational times / Scheduling of activities

27.23 The complexity and detail of this part of the Operating Schedule will depend upon the significance of any risk of public nuisance being caused. Where there is a high risk of public nuisance and to prevent the possibility of representations being submitted by responsible authorities or interested parties, it is recommended that

applicants should give careful consideration to the provision of a technical acoustic report as part of the operating schedule. In particular, where applications are submitted to operate licensed premises between hours that include any part of the hours between 2300 and 0800 applicants will be expected to demonstrate that operating during these hours will not have an adverse effect on the licensing objectives and set out the steps which they propose to take to secure these objectives.

27.24 The Licensing Authority will, if not volunteered by the applicant in their operating schedule and following relevant representations, consider attaching conditions to licences and permissions to prevent public nuisance, which include:

- Keeping doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- Displaying prominent, clear and legible notices to be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- Placing restrictions on the use of beer gardens and other external areas particularly at night;
- Taking steps to reduce the impact of smokers and non smokers congregating outside the premises; this may include preventing alcohol from being consumed on the highway, reducing the level of amenities and the use of curfews for external areas, and providing additional staff to control such activities;
- Providing guidance on the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas;
- Ensuring that the placing of refuse – such as glass bottles – into receptacles outside the premises takes place at times that will minimise disturbance to nearby properties;
- Venting premises to ensure that noxious smells from licensed premises are not permitted to cause a nuisance to nearby properties;
- Ensuring that flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Consideration of the imposition of such a condition will be appropriately balanced against the benefits of the prevention of crime and disorder.

### Prevention of nuisance – Open Spaces

27.25 The use of our open spaces, notably Southsea Common, Castle Field and the Bandstand for regulated entertainment has the potential to adversely affect local residents. In striking a balance between the promotion of cultural and commercial

activity in public open spaces and the impact that such events have on residents over a wide area the Council will take into account the effect over a period of time of events which have already taken place or are planned upon these areas. The role of the Council as Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of those providing entertainment on these areas with the needs of residents and other users of the city. When considering applications for events in these areas and following representations being made, the Council will satisfy itself that adequate measures to prevent public nuisance are in place and will be maintained.

### Protection of Children from Harm

27.26 Having regard to the Statutory Guidance issued in accordance with section 182 of the Act, there is an expectation that applicants will have regard to this Policy when making applications and equally that they should be aware of the expectations of the Licensing Authority and the responsible authorities about the steps that are necessary for the promotion of the licensing objectives.

27.27 The Trading Standards Service consider that an applicant's operating plan should be precise and clear about the measures proposed to be taken in relation to the protection of children from harm, particularly the prevention of under-age and proxy sales. Consideration should be given to the following matters:

- Provision of sufficient training for frontline staff;
- Adequate supervision of the premises, particularly late at night or in the early hours of the morning;
- Layout of the premises or site;
- An appropriate age identification policy.

27.28 The Licensing Authority will expect applicants for licences to demonstrate that they have ensured that all their frontline staff have received **or will receive** adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept. **It is also expected that licence holders will ensure that all frontline staff receive refresher training on an ongoing basis and, in addition, where there is an identified need to do so.**

27.29 The Licensing Authority will expect applicants and premises licence holders to take reasonable steps as may be necessary to prevent underage drinking and proxy sales of alcohol to children both within the licensed premises itself and in the vicinity, where and to the extent that these matters are within their control.

27.30 Further advice and guidance on preparing operating plans, examples of best practice, including age verification policies and availability of accredited training for licence holders and front line staff is available on the Council's website at [www.Portsmouth.gov.uk](http://www.Portsmouth.gov.uk) (trading standards).

## 28.0 Licence Review Process

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- 28.1 The proceedings set out in the Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 28.2 At any stage, following the grant of a premises licence, a responsible authority or an interested party may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 28.3 In addition, a review of the licence will normally follow any action by the Chief Officer of Police to close down the premises for up to 24 hours on the grounds of disorder or noise nuisance as a result of a notice of the Magistrates' Court's determination sent to the Licensing Authority.
- 28.4 Licensing officers may not initiate their own reviews of premises licences, but elected members of the Licensing Authority may request reviews if they are concerned about licensed activities at a premises or such matters are brought to their attention. Officers of the local authority who are specified as responsible authorities under the Act, such as environmental health officers, may also request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 28.5 Representations made by a department of the local authority which is a responsible authority will be treated by the Licensing Authority in precisely the same way that they would treat representations made by any other body or individual.
- 28.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 28.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 28.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. The Licensing Authority recognises that it is good practice for authorised persons and responsible authorities

to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.

28.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the Licensing Authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

28.10 When a Licensing Authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures, it must arrange a hearing. The arrangements for hearings must follow the provisions set out within statutory regulations. It is very important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal advisor have therefore been able to prepare a response.

28.11 The Act provides a range of powers for the Licensing Authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

28.12 There may be occasions where the Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. Equally, there is nothing to prevent a Licensing Authority from issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time.

28.13 Where the Licensing Authority considers that action under its statutory powers is necessary, it may take any of the following steps:-

- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- To exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- To remove the designated premises supervisor, for example, because it considers that the problems are the result of poor management;
- To suspend the licence for a period not exceeding three months;
- To revoke the licence.

28.14 In deciding which of these powers to invoke, the Licensing Authority will so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken will generally be directed at



these causes and will always be no more than a necessary and proportionate response.

## **29.0 Administration, exercise and delegation of functions**

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29.1 The Act provides that the functions of the Licensing Authority (including its decisions) are to be undertaken by its Licensing Committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The Licensing Committee may delegate these functions to sub-committees or in appropriate cases, to officers. As many of the decisions and functions will be purely administrative in nature and in the interests of speed, efficiency and cost effectiveness, the Licensing Authority shall undertake a process of delegation of its functions. The delegation of functions is set in the table at 28.3 below.

29.2 The Licensing Committee shall receive regular reports on decisions made by officers in order that they maintain an overview of the general situation.

### 29.3 Delegation of Functions

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for a personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions (upon receipt of an objection notice from Police)		All cases	
Application for premises licence or club premises certificate		If a relevant representation made	If no relevant representation made
Application for a provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence or 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
Application for interim authority		If a police objection	All other cases

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Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application to review premises licence or club premises certificate		All cases	
Consideration of interim steps and application for summary review of a premises licence		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	
Application for a minor variation of a premises licence or club premises certificate			All cases
Removal of the requirement for a Designated Premises Supervisor (DPS) and Personal Licence at Community Premises		If a police objection	All other cases

### 30.0 Contact Details/Advice & Guidance

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- 30.1 Applicants can obtain further details about the licensing and application process, including application forms, fees and details regarding each type of application from:

The Licensing Service  
 Portsmouth City Council  
 Legal, Licensing & Registrars  
 Civic Offices  
 Guildhall Square  
 Portsmouth  
 Hants  
 PO1 2AL

Tel: 023 9283 4607  
 Fax: 023 9283 4811  
 Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)  
 Web: [www.portsmouth.gov.uk/living](http://www.portsmouth.gov.uk/living)

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30.2 Applicants may also submit electronic applications and payments online via Businesslink at [www.businesslink.gov.uk](http://www.businesslink.gov.uk) or via the Council's website at [www.portsmouth.gov.uk/living](http://www.portsmouth.gov.uk/living).

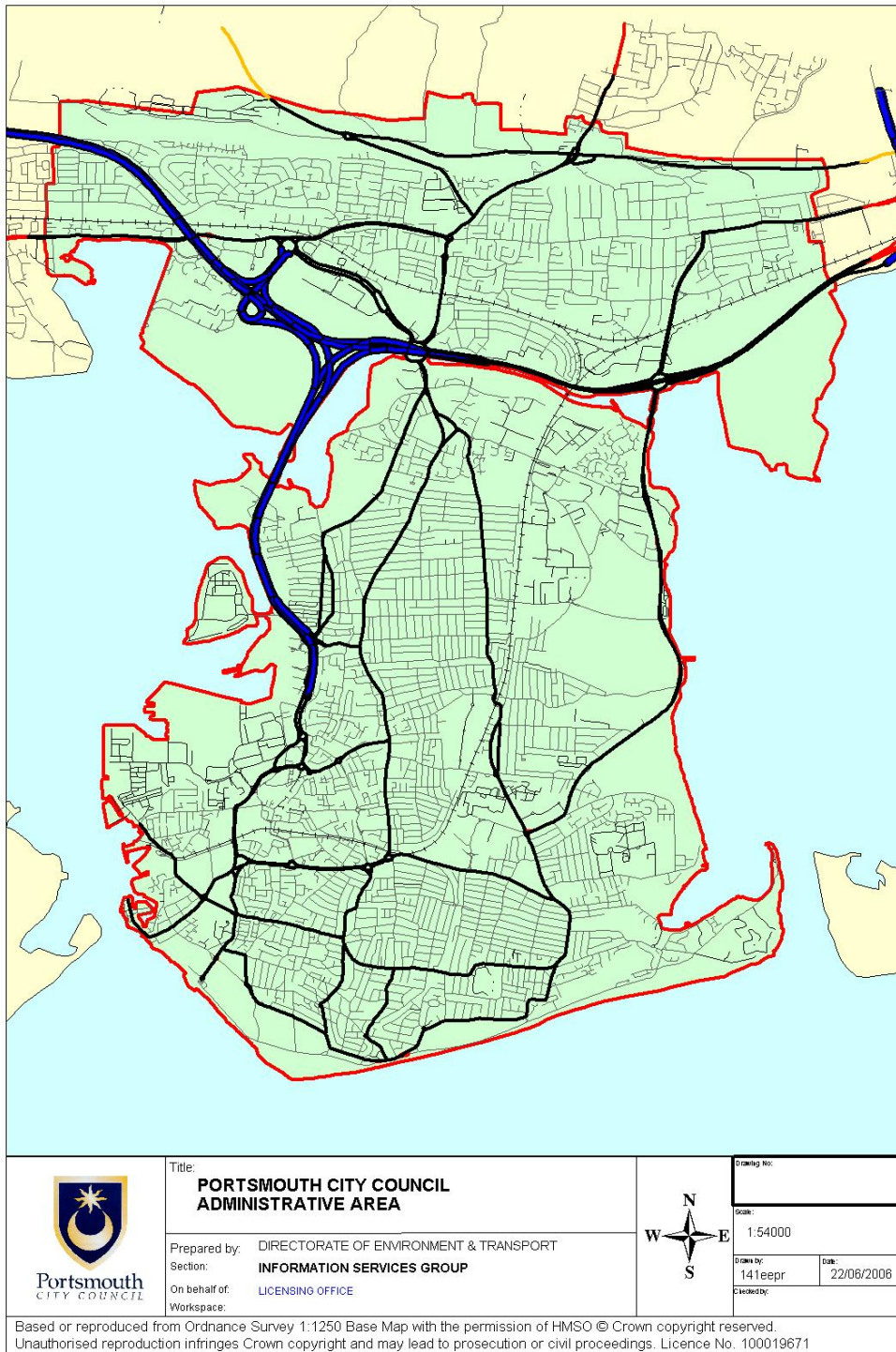
30.3 Contact details for all the responsible authorities are provided below:

<p>Head of Planning Services Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AU</p> <p>Tel: 023 9283 4334 Fax: 023 9283 4660 Email: <a href="mailto:planning@portsmouthcc.gov.uk">planning@portsmouthcc.gov.uk</a></p>	<p>Public Protection Service Environmental Protection Division Environment &amp; Transport Directorate Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AZ</p> <p>Tel: 023 9268 8366 Email: <a href="mailto:Publicprotection@portsmouthcc.gov.uk">Publicprotection@portsmouthcc.gov.uk</a></p>
<p>Public Protection Service Commercial Division Environment &amp; Transport Directorate Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AZ</p> <p>Tel: 023 9268 8362 Email: <a href="mailto:Publicprotection@portsmouthcc.gov.uk">Publicprotection@portsmouthcc.gov.uk</a></p>	<p>Public Protection Service Trading Standards Division Environment &amp; Transport Directorate Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AZ</p> <p>Tel: 023 9283 4689 Email: <a href="mailto:Tradingstandards@portsmouthcc.gov.uk">Tradingstandards@portsmouthcc.gov.uk</a></p>
<p>The Chief Officer of Police Hampshire Constabulary Licensing Unit Southsea Police Station 259 Highland Road Eastney Portsmouth Hants PO4 9EX Tel: 0845 045 4545 Direct Dial: 023 9289 9080 Fax: 023 9289 3285 Email: <a href="mailto:Portsmouth.licensing@hampshire.pnn.police.uk">Portsmouth.licensing@hampshire.pnn.police.uk</a></p>	<p>The Chief Fire Officer Hampshire Fire and Rescue Service Service Delivery (Community Safety Delivery), Protection Department Southsea Fire Station Somers Road Southsea Hants PO5 4LU Tel: 023 9285 5180 Fax: 023 9288 5175 Email: <a href="mailto:csprotection.admin@hantsfire.gov.uk">csprotection.admin@hantsfire.gov.uk</a></p>

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<p>Director of Children, Families &amp; Learning          Portsmouth City Council          Civic Offices          Guildhall Square          Portsmouth          Hants          PO1 2EP</p> <p>Tel: 023 9282 2251</p>	<p><b>Where relevant:</b> (<i>Copies of applications should, in most cases, only be served on the Health and Safety Executive in respect of premises operated by crown bodies (including the military), local authorities, the police, hospitals, schools and universities.</i>)</p> <p>Health and Safety Executive          Priestley House          Priestley Road          Basingstoke          Hants          RG24 9NW</p> <p>Tel: 01256 404000          Fax: 01256 404100          Email: <a href="mailto:eselicensing@hse.gsi.gov.uk">eselicensing@hse.gsi.gov.uk</a></p>	
<p>In respect of vessels only:</p>		
<p>Navigation Authority:</p> <p>Queen's Harbour Master          Semaphore Tower PP70          HMS Nelson          HM Naval Base          Portsmouth          Hants          PO1 3LT</p> <p>Tel: 023 9272 3124  <a href="http://www.ghmportsmouth.com">www.ghmportsmouth.com</a></p>	<p>Environment Agency          Hampshire and IOW Area          Office          Wessex Business Park          Wessex Way          Colden Common          Winchester          Hants          SO21 1WP</p> <p>Tel: National Call Centre          08708 506 506 (Mon –          Fri 8-6)</p>	<p>Maritime and Coastguard Agency          Spring Place          105 Commercial Road          Southampton          Hants          SO15 1EG</p> <p>Tel: 0870 6006505</p> <p>Email:  <a href="http://www.infoline@mcga.gov.uk">www.infoline@mcga.gov.uk</a></p>

Appendix A – Map of Portsmouth



### Appendix B – Supporting information and Map of special policy area relating to cumulative impact in Portsmouth

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#### Special Policy Area – Portsmouth City Centre Area

##### Introduction

The aim of this report is to provide an updated report<sup>3</sup> regarding the extent and nature of Violent Crime offences recorded within the Night Time Economy (NTE) centred on the Guildhall Walk area. The purpose is to identify evidence in support of a Special Policy Area.

A Special Policy Area (SPA), by identifying the levels and locations of crime and disorder caused by customers of licensed premises, can provide grounds for rebuttal for applications for new licenses or variations to existing licenses, unless the applicant can demonstrate that there will be no negative impact on one or more licensing objectives.

##### Methodology

Violent Crime data has been extracted from the Record Management System (RMS) using Business Objects (BO) for a 6 month period between 1<sup>st</sup> January and 30<sup>th</sup> June 2010.

##### Geographical Spread

The main Night Time Economy (NTE) area for Portsmouth is centred on the Guildhall Walk area of the city centre. This area (as shown in the map overleaf) incorporates 12 roads, these being:

- Alec Rose Lane
- Cambridge Rd
- Commercial Rd
- Guildhall Square
- Guildhall Walk
- Hampshire Terrace
- King Henry 1<sup>st</sup> St
- Stanhope Rd
- St Michaels Rd
- White Swan Rd
- Willis Rd
- Wiltshire St

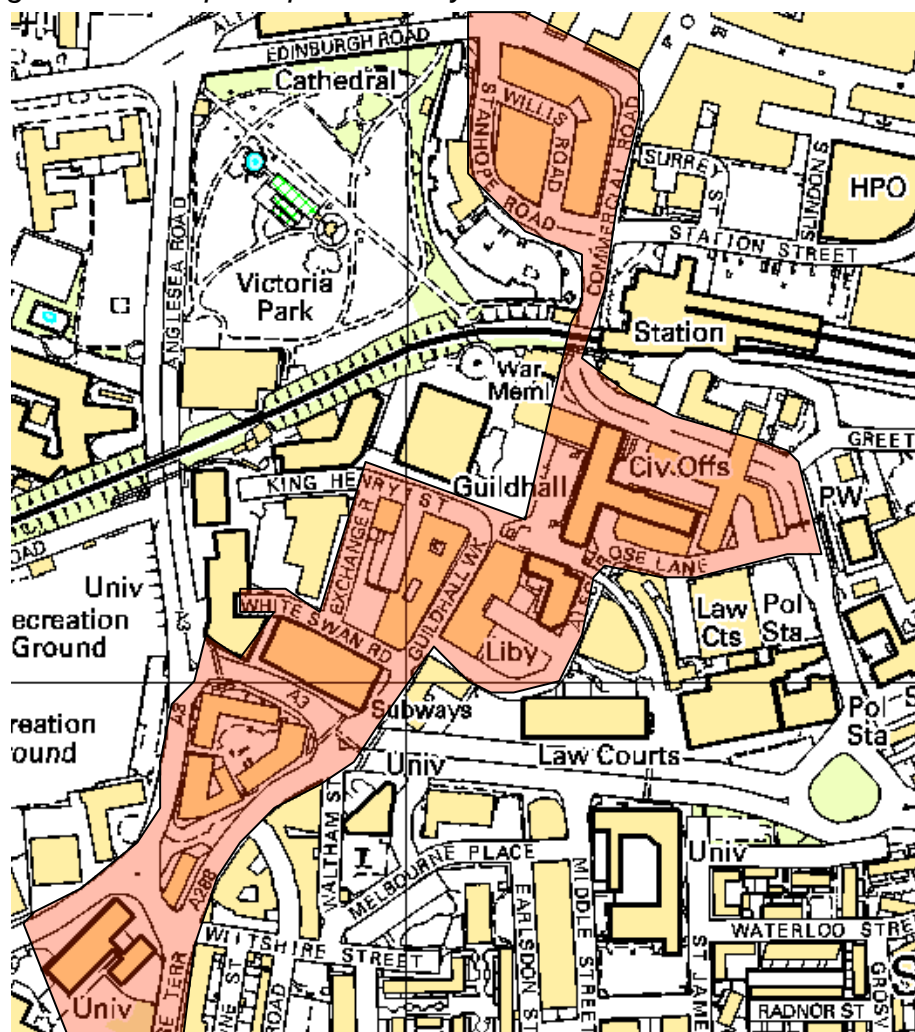
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<sup>3</sup> This report has been requested by the Licensing Department to update a previously commissioned report produced by Senior Analyst 10203 Paul Moorman in 2007.

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A total of 20 licensed premises<sup>4</sup> are located within these roads, with several others being situated on the periphery. Licensed premises within the SPA can accommodate in excess of 10,000 patrons.

Figure 1.0 – Map of Special Policy Area



Following beat boundary changes, the SPA now sits within PC04 (City Centre)<sup>5</sup>. This is a strictly commercial area incorporating businesses operating within the separate Day Time and Night Time economies. The NTE attracts a number of local residents including university students and naval personnel, as well as a number of visitors from outside of Portsmouth.

<sup>4</sup> These licensed premises include: Club 8, Terrace Bar, Fleet/Babylon, Fuzzy Duck/Heaven Sent, Isambard Kingdom Brunel, Portsmouth Guildhall, Kraken Wakes, Roast Bar, Route 66, V Bar, Walkabout, White Swan, Yates Wine Lodge, Drift in the City, Liquid & Envy, Martha's, Hampshire Boulevard, Student Union, The Trafalgar, Scandals

<sup>5</sup> At the time of writing this report in 2007, this beat boundary had not been created and so the SPA transcended across beat boundaries of PC01 (Charles Dickens East) and PC03 (St Thomas)

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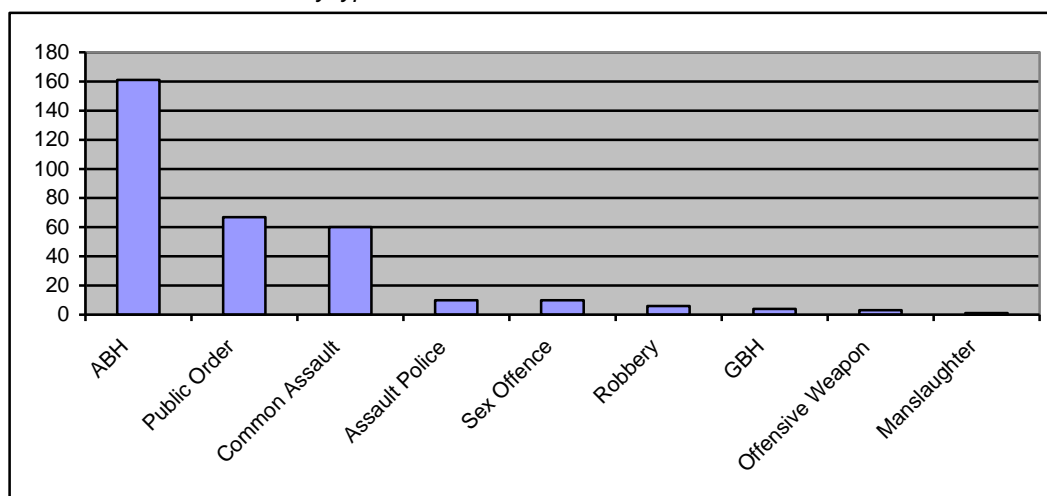
### Offence Summary

Violent Crime consists of 3 sub-categories; violence against the person (VAP) offences, sexual offences and robbery offences. Each of the sub-categories is comprised of a number of separate Home Office classifications.

A total of 322 violent crime offences have been recorded in this area during the specified period. This accounts for 70.8% of the total number of offences to have occurred within PC04 during this period.

The number of offences contributing to each category is shown in the following chart:

Figure 1.1 – Violent crime in SPA by type



The above chart identifies that by far, ABH is the highest violent crime type to be recorded in the SPA, accounting for 50% (n.161) of the total recorded for this area. This is followed by reports of public order offence and incidents of common assault accounting for 20.8% (n.67) and 18.6% (n.60) respectively.

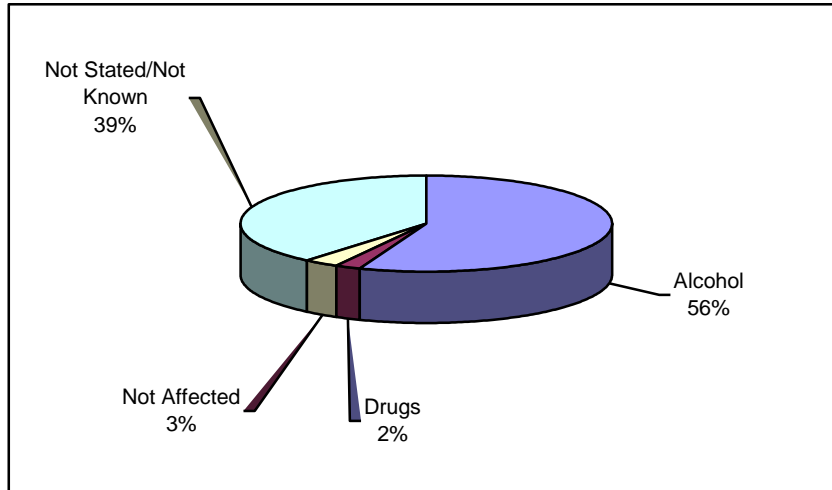
Whilst there are far fewer incidents of serious violence (GBH section 20 and above), sex offences and reports of robbery recorded in the SPA, these are obviously regarded as being at the more serious end of the offence spectrum, combining a greater impact on the victim, coupled with more resource intensive police investigations.

The number of offences recorded where the offender has been affected by alcohol has been researched to help identify a connection to the NTE.



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Figure 1.2 – Alcohol Affected Offenders

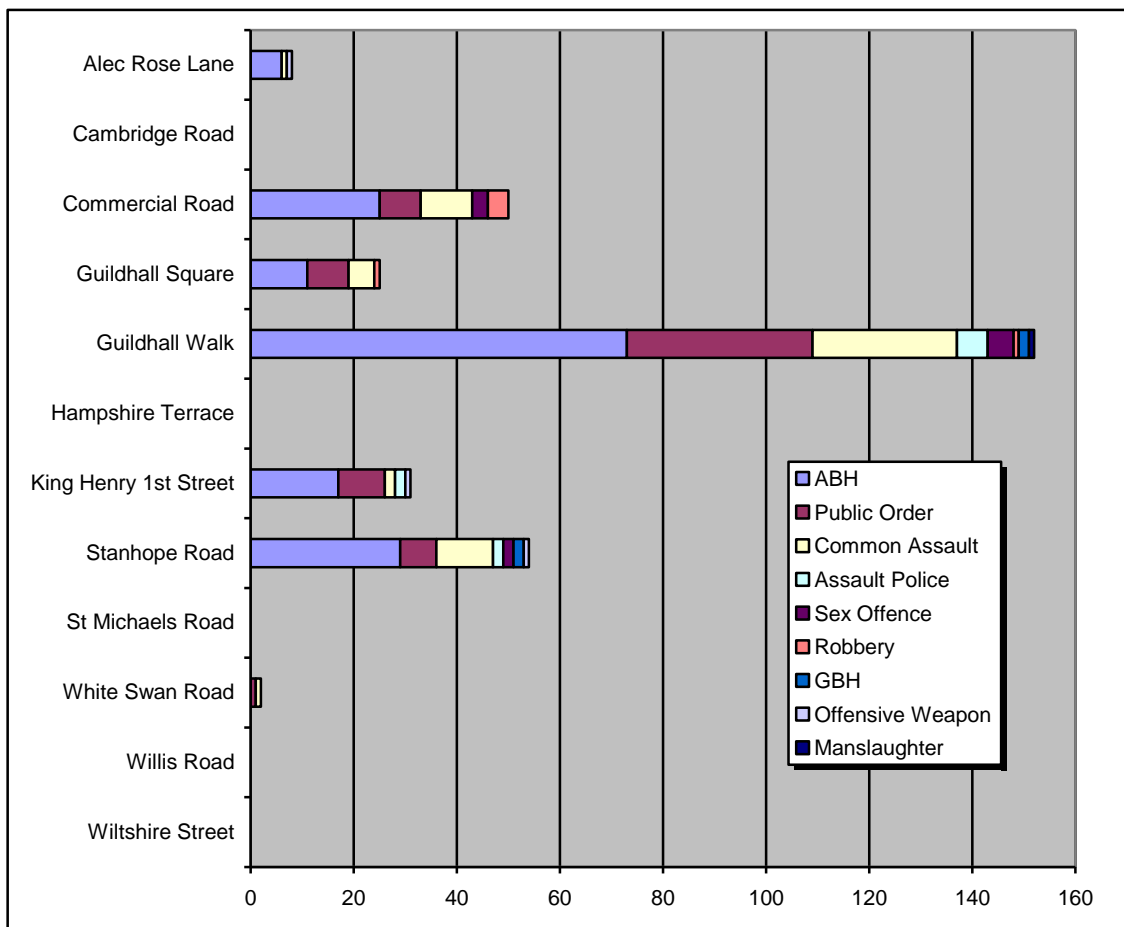


The above chart identifies that over half of offenders where known to have been affected by alcohol. The number of offenders recorded as not being affected by alcohol is extremely low.

## Offence Distribution

The below table identifies the type of offences recorded for each road:

Figure 1.3 – Offence types by location



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The above chart identifies the top 5 violent crime locations for the SPA are:

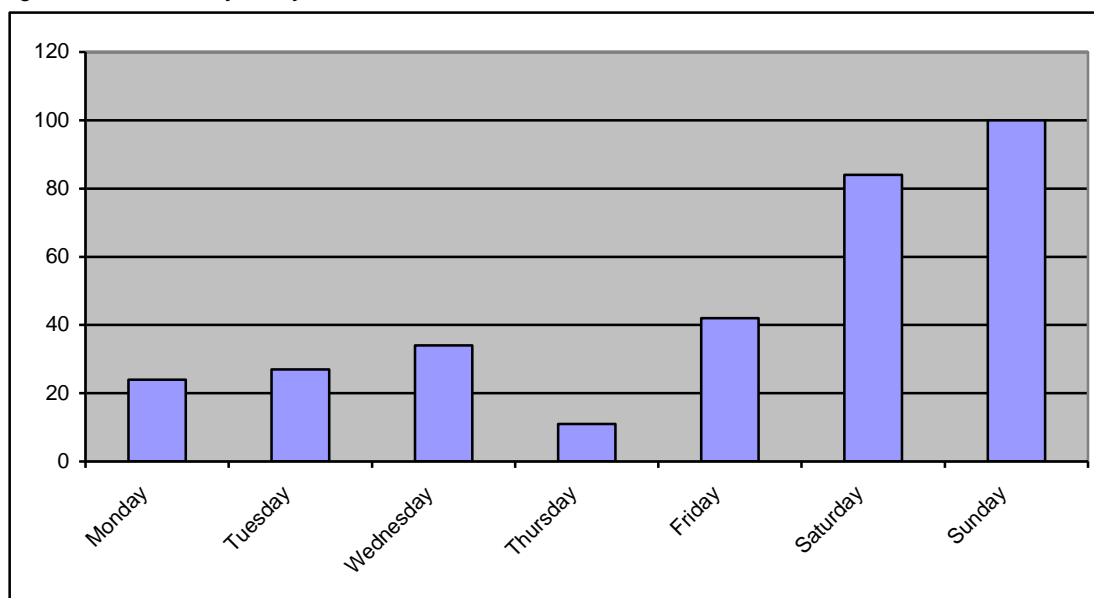
- Guildhall Walk (47.2%, n.152)
- Stanhope Road (16.8%, n.54)
- Commercial Road (15.5%, n.50)
- King Henry 1<sup>st</sup> Street (9.6%, n.31)
- Guildhall Square (7.8%, n.25)

These 5 roads account for 96.9% (n.312) of offences in the SPA area. Guildhall Walk accounts for almost half of all violent crime recorded in the SPA. This may correlate to the high concentration of licensed premises along this particular road, resulting in a higher concentration of recorded offences.

### Temporal Analysis

Temporal analysis was undertaken to identify the peak times and days for offences to occur in the SPA, to identify any relation between peak offence times and core licensing hours.

Figure 1.4 – Peak Day Analysis



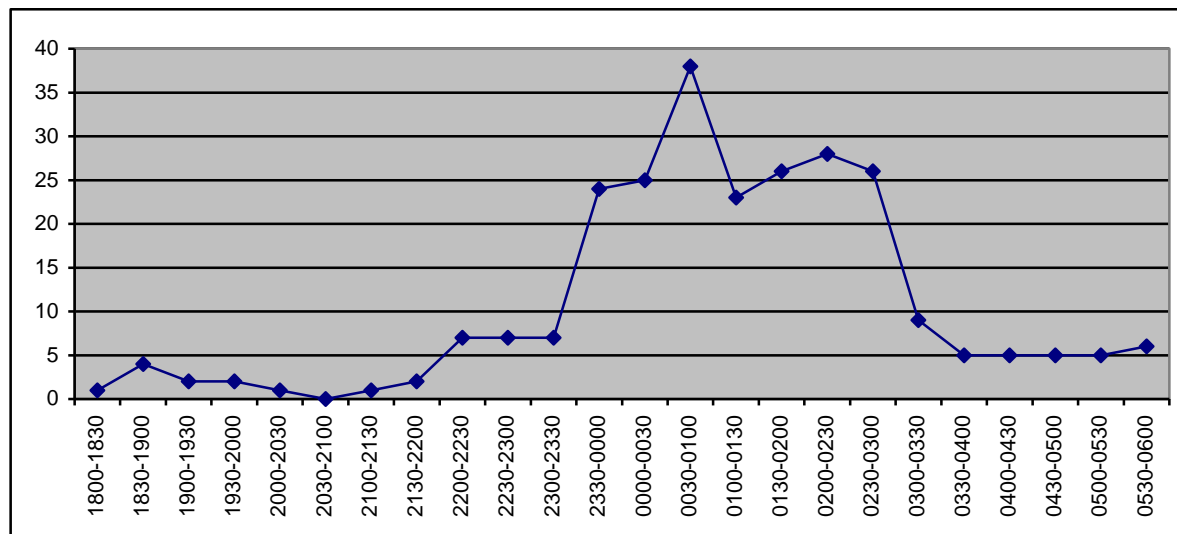
The above chart identifies that offences peak significantly over the weekend with Saturday and Sunday accounting for 26.1% (n.84) and 31.1% (n.100). It is thought such peaks in offending on Sunday relates to offences occurring into the early hours following a night out on the Saturday evening.

An slight increase in offences is noticeable on a Friday in comparison to other weekdays. Peak time analysis identifies that offences will be carried over from Friday night to the early hours of Saturday morning, augmenting that days total.

Ordinarily, the days associated with the bulk of activity in a NTE would be Friday and Saturday, as this is the end of the working week and at a time when many people receive their wages. Other peaks may become apparent on themed nights, such as student night, where free entry to clubs or discounted drinks prices, are used as an incentive to draw customers.

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Figure 1.5 – Peak Time Analysis



Peak time analysis was conducted for a 12 hour period from early evening through to the morning. This incorporated 259 offences, (just over 80%) The above chart identifies that offences peak significantly between 2330-0300hrs within the SPA, with 59% (n.190) of all reported incidents occurring within this 3 and a half hour window. These times may correlate with a peak in movement within the SPA as people begin to make their way home and the NTE draws to a close.

### Conclusion

The SPA incorporates the main NTE area in Portsmouth, situated in the busy city centre. The large number of licensed premises within the SPA can accommodate in the region of 10,000 persons a night. This is augmented by a number of licensed premises being situated on the periphery of the area. There will undoubtedly be a high level of movement throughout this area of persons affected by alcohol.

During the last strategic period, PC04, which incorporates the SPA, recorded the highest level of violent crime offences in Portsmouth.<sup>6</sup> This is believed to be as a direct result of the presence of the NTE. The analysis within this document further supports these findings.

<sup>6</sup> Portsmouth Operational Command Unit Strategic Assessment June 2010