



NOTICE OF MEETING

LICENSING SUB-COMMITTEE

WEDNESDAY, 11 OCTOBER 2017 AT 9.30 AM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Joanne Wildsmith, Democratic Services, Tel: 9283 4057
Email: Democratic@Portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Committee Members Councillors Lee Mason (Chair), Hannah Hockaday (Vice Chair), Dave Ashmore, David Fuller, Colin Galloway, Paul Godier, Scott Harris, Steve Hastings, Ian Lyon, Leo Madden, Stephen Morgan, Gemma New, Steve Pitt, David Tompkins and Gerald Vernon-Jackson.

The panel today consists of : Councillors Hannah Hockaday, Dave Ashmore and David Fuller

The reserve member is Councillor Steve Pitt

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Licensing Sub Committee meetings are digitally recorded.

A G E N D A

- 1 Election of Chair**
- 2 Declaration of Members' Interests**
- 3 Licensing Act 2003 - Application to Vary a Premises Licence - Ken's Kebab House, 35 Guildhall Walk, Portsmouth PO1 2RY (Pages 3 - 110)**

The purpose of the report by the Licensing Officer is for the committee to consider an application for the variation of a premises licence pursuant to section 35 of the Licensing Act 2003 ("the Act").

The matter has been referred to the committee for determination following receipt of relevant representation(s) from two responsible authorities. Further

detail about the representations received is shown at paragraph 4 below.

The committee is requested to determine the variation application.

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

Agenda Item 3

REPORT TO: LICENSING SUB-COMMITTEE 11th OCTOBER 2017

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: Derek Stone

Licensing Act 2003 - Application for variation of a premises licence - Ken's Kebab House, 35 Guildhall Walk, Portsmouth, PO1 2RY

1. PURPOSE OF REPORT

The purpose of this report is for the committee to consider an application for the variation of a premises licence pursuant to section 35 of the Licensing Act 2003 ("the Act").

The matter has been referred to the committee for determination following receipt of relevant representation(s) from two responsible authorities. Further detail about the representations received is shown at paragraph 4 below.

2. THE APPLICATION AND PROPOSED VARIED OPERATING SCHEDULE

The variation application has been submitted on behalf of Mr Usman Naseem Ahmed and relates to premises known as Ken's Kebab House and situated at 35 Guildhall Walk, Portsmouth, PO1 2RY.

The proposed changes to the current authorisation are the extension to the permitted hours for the provision of late night refreshment until 05:00 hours every day. The current premises licence permits late night refreshment from 23:00 to 03:00 Monday to Sunday.

The applicant has detailed in the operating schedule the steps intended to support and promote the licensing objectives. These can be found in the redacted application form attached as **appendix A**. The current licence is attached as **appendix B**.

This variation process *cannot be used* to extend a time limited licence or to vary substantially the premises to which it relates. Equally, there are separate and distinct provisions in the Act for minor variations, a change to the name or address of the licence holder and to specify and/or remove the Designated Premises Supervisor.

The updated statutory guidance¹ gives general advice about the steps to promote the licensing objectives as follows:

Paragraph 8.39 *"Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:*

the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate; any risk posed to the local area by the applicants' proposed licensable activities; and any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks."

¹ Revised Statutory Guidance April 2017

Paragraph 8.40 *"Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy."*

Paragraph 8.41 *"It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application."*

Paragraph 8.44 *"Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises."*

Paragraph 8.47 *"Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above."*

3. BACKGROUND INFORMATION

The provisions relating to the variation of a premises licence are contained within part 3 of the Licensing Act 2003 and associated statutory regulations.

Public notice has been given by way of press notice, a premises notice and local ward councillors have been notified of the application. There are no germane grounds for the committee to reject the application for non-compliance with the prescribed advertising requirements.

Ken's Kebab House is located within the cumulative impact area adopted under the special policy in Portsmouth City Council's statement of licensing policy.

The premises licence was revoked on the 18th January 2017 following a licensing hearing, prompted by a review, instigated by the police and supported by your licensing authority. The grounds for the review was the recent increase in incidents at the premises together with the premises operating beyond their permitted hours which had seriously undermined three of the four licensing objectives. Following revocation, the premises ownership was transferred to the current licence holder (Father to Son) and the current premises licence was granted following a Licensing Sub-Committee hearing on the 5th April 2017.

4. REPRESENTATIONS BY RESPONSIBLE AUTHORITIES

Relevant representations have been received from PC Rackham on behalf of the Chief Officer of Police Hampshire Constabulary and from Nickii Humphreys Portsmouth City Council Licensing Manager. These representations relate to the Cumulative Impact Zone (CIZ) and the fact that if the application was granted there would be a negative impact on the CIZ together the applicant

not sufficiently demonstrating in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The statutory guidance states:

Paragraph 9.11 *"Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so."*

Paragraph 9.12 *"In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing."*

Copies of the redacted representations received are attached as **appendix C**.

Attached at **appendix D** are the committee decision notices detailed in paragraph 3 above.

5. POLICY AND STATUTORY CONSIDERATIONS

When determining the variation application, the committee must have regard to:

- Promotion of the licensing objectives which are;
 - Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
- The Licensing Act 2003;
- The adopted Statement of Licensing Policy;
- Judgements of the High Court, (your legal adviser will give you guidance should this become necessary);
- The current statutory guidance² issued by the Home Secretary in accordance with section 182 of the Act; and

² Revised statutory guidance April 2017

- The representations, including supporting information, presented by all the parties.

Statement of Licensing Policy

The Statement of Licensing Policy lays down a general approach to the determination of licensing applications and any such application will be considered on its individual merits. Equally, any person permitted by the Act to make relevant representations to the Committee will have those representations considered on their individual merit.

The Committee should consider the fundamental principles set out in its policy, particularly paragraphs 4.7 and 4.8 which are reproduced below:

- 4.7** *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.*
- 4.8** *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.*

The Committee should also have regard to paragraphs 7.1 to 7.5 in relation to such circumstances where it may be appropriate to consider the imposition of conditions on a premises licence.

Statutory Guidance

The updated statutory guidance issued by the Home Secretary in accordance with section 182 of the Act refers to the consideration of applications for the grant or variation of premises licences in Chapter 9.

Members may wish to consider the following extracts from the statutory guidance when determining this application:

Paragraph 9.37 *"As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation."*

Paragraph 9.42 *"Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account*

any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be."

Paragraph 9.43 *"The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve."*

Paragraph 9.44 *"Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination."*

Paragraph 10.8 *"The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations."*

Paragraph 10.9 *"It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives."*

Paragraph 10.13 *"The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application."*

Paragraph 10.14 *"Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this*

would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested."

Members are reminded about the review provisions contained in chapter 11 of the guidance and, in particular:

Paragraph 11.1 *"The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate."*

Paragraph 11.2 *"At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives."*

Paragraphs 14.20 to 14.41

These paragraphs will assist members with regard to the cumulative impact of a concentration of licensed premises.

Paragraph 14.30 in particular states *"The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application."*

Determination of an application

Where an application to vary a premises licence has been made in accordance with section 34 of the Act and where relevant representations have been made, the licensing authority must hold a hearing to consider them, unless the applicant, each person who has made representations and the licensing authority agree that a hearing is unnecessary.

After having regard to the representations, the Committee may take such steps, if any, as it considers appropriate for the promotion of the licensing objectives which are:

- To modify the conditions of the licence
- To reject the whole or part of the application

And for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

In discharging its duty in accordance with the above, the Committee may vary a premises licence so that it has effect subject to different conditions in respect of:

- different parts of the premises concerned;
- different licensable activities.

Members are reminded of their obligation to give reasons for any decision(s) reached by further reference from the statutory guidance as follows:

Paragraph 13.10 *"It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act."*

A copy of the Statement of Licensing Policy, current statutory guidance and the Act has been supplied to each of the Members' Rooms and further copies will be available for reference at the hearing.

6. APPEALS

Schedule 5, part 1, of the Act sets out the appeal provisions in relation to the determination of an application to vary a premises licence.

Where the Licensing Authority rejects (in whole or in part) an application, the applicant may appeal against the decision to the Magistrates' Court.

Should the committee grant (in whole or in part) an application, the applicant may appeal against any decision to modify the conditions of the licence.

Where a person who made relevant representations in relation to the application contends that:

- a) that any variation made ought not to have been made, or
- b) that, on varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under section 4(a) of that section,

He may appeal against the decision.

7. APPENDICES

- A.** Copy of the redacted application for the variation of the premises licence together with a schedule of proposed changes to the licence conditions if necessary
- B.** Copy of the current premises licence
- C.** Copies of the redacted relevant representations received
- D.** Copies of Licensing Sub-Committee hearings 18th January 2017 (Revocation) and 5th April 2017 (Grant)

THE COMMITTEE IS REQUESTED TO DETERMINE THE VARIATION APPLICATION



For Licensing Manager
And on behalf of Head of Service



* required information

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You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

LIC/JOSW

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

Usman Naseem

* Family name

Ahmed

* E-mail

jon.wallsgrove@blakemorgan.co.uk

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

Address

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Other telephone number

Include country code.

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

VAT number

Legal status

Your position in the business

Home country

If your business is registered, use its registered name.

Put "none" if you are not registered for VAT.

The country where the headquarters of your business is located.

Continued from previous page...

Agent Registered Address

Address registered with Companies House.

Building number or name	<input type="text" value="New Kings Court"/>
Street	<input type="text" value="Tollgate"/>
District	<input type="text" value="Chandlers Ford"/>
City or town	<input type="text" value="Eastleigh"/>
County or administrative area	<input type="text" value="Hants"/>
Postcode	<input type="text" value="SO53 3LG"/>
Country	<input type="text" value="United Kingdom"/>

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APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address OS map reference Description

Postal Address Of Premises

Building number or name	<input type="text" value="Ken's Kebab House"/>
Street	<input type="text" value="35 Guildhall Walk"/>
District	<input type="text"/>
City or town	<input type="text" value="Portsmouth"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="PO1 2RY"/>
Country	<input type="text" value="United Kingdom"/>

Premises Contact Details

Telephone number

Non-domestic rateable value of premises (£)

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VARIATION

Continued from previous page...

Do you want the proposed variation to have effect as soon as possible?

Yes No

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?

Yes No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

To extend permitted hours for late night refreshment to 5am each day.

Section 4 of 18

PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to vary is successful?

Yes No

Section 5 of 18

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to vary is successful?

Yes No

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PROVISION OF INDOOR SPORTING EVENTS

[See guidance on regulated entertainment](#)

Continued from previous page...

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide live music be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

- Yes No

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the provision of late night refreshment take place indoors or outdoors or both?

- Indoors Outdoors Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

Continued from previous page...

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where the premises will be used for the provision of late night refreshment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

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SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

- Yes No

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ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

N/A

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

WEDNESDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="05:00"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="05:00"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="05:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="05:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="11:00"/>	End	<input type="text" value="05:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Conditions 02 and 04 to be amended as follows:-

02 A minimum of one SIA licensed door supervisor will be on duty from midnight until at least 05:00 hours on Mondays to Thursdays and a minimum of 2 on Friday and Saturday from 23:00 hours until at least 05:00 hours.

04 The tills will automatically switch off at 05:00 hours each day to prevent any further sales of food or drink.

Continued from previous page...

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

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LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

The premises are in the City Council's cumulative impact area however, the premises licence is already fit for purpose to operate until 5am, given the conditions which were imposed when the new licence was granted. At least two of the premises selling alcohol have had their hours extended until 4am and this has seen a significant decrease in the numbers of persons in Guildhall Walk between 2am and 3am and an obvious increase in the numbers of persons there at 4am. Gida, which is directly opposite these premises, was recently granted a licence to provide late night refreshment until 5am each day. If Kens Kebab's were permitted to open until 5am this would benefit the area as it will assist in the quicker dispersal of persons who are already in the area at that time and wish to purchase food.

Accordingly there are no additional conditions which the applicant considers are needed to ensure the licensing objectives are promoted and there is no negative effect on the cumulative impact.

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

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NOTES ON REGULATED ENTERTAINMENT

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Variation Fees are determined by the non domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No RV to £4300	£100.00
Band B - £4301 to £33000	£190.00
Band C - £33001 to £8700	£315.00
Band D - £87001 to £12500	£450.00*
Band E - £125001 and over	£635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then your are required to pay a higher fee

Band D - £87001 to £12500	£900.00
Band E - £125001 and over	£1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999	£1,000.00
Capacity 10000 -14999	£2,000.00
Capacity 15000-19999	£4,000.00
Capacity 20000-29999	£8,000.00
Capacity 30000-39000	£16,000.00
Capacity 40000-49999	£24,000.00
Capacity 50000-59999	£32,000.00
Capacity 60000-69999	£40,000.00
Capacity 70000-79999	£48,000.00
Capacity 80000-89999	£56,000.00
Capacity 90000 and over	£64,000.00

* Fee amount (£)

DECLARATION

I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the

Continued from previous page...

* licensing act 2003, to make a false statement in or in connection with this application.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/portsmouth/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

Date and time submitted

Approval deadline

Error message

Is Digitally signed

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Portsmouth
CITY COUNCIL

PREMISES LICENCE

Licensing Act 2003

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description

Address: Ken's Kebab House
35 Guildhall Walk
Portsmouth
PO1 2RY

Map Ref (E) : 464010
Map Ref (N): 99987
UPRN: 001775033987

Telephone

Where the licence is time limited the dates

This licence is **NOT** time limited

Licensable activities authorised by the licence

▶ Late night refreshment

The times the licence authorises the carrying out of licensable activities

▶ Late night refreshment
Monday to Sunday 23:00 until 03:00

The opening hours of the premises

▶ Monday to Sunday 11:00 until 03:00

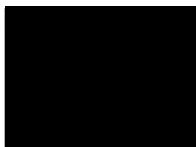
Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Name: Mr Usman Naseem Ahmed

Address:



Telephone:



Email:



Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Name:

Address:

Telephone:

Email:

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

Personal Licence No:

Issuing Authority:

Granted by Portsmouth City Council, as licensing authority pursuant to the Licensing Act 2003 as amended and regulations made thereunder

Date Licence granted: 5 April 2017

Date last amended: 5 April 2017

Type: New



Signed on behalf of the Head of Service
(Authorised Officer)

Portsmouth City Council is committed to complying with the Freedom of Information Act 2000 (FOIA) which applies to all recorded information that it holds or is held on its behalf. Information that is provided to or held by the City Council will be processed and disclosed strictly in accordance with the FOIA, the Data Protection Act 1998 or other appropriate legislation.

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to www.portsmouth.gov.uk and search for 'National Fraud Initiative'.



Annex 1 – Mandatory Conditions

01 Where any condition of this licence requires that, at specified times, one or more individuals must be at the premises to carry out a security activity, each such individual must:

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of that Act.

For the purposes of this condition "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act).

This condition is subject to any exemptions in accordance with the provisions of the Private Security Industry Act 2001.

-- END --

Annex 2 – Conditions consistent with the operating schedule

01 The licence holder will comply with the following requirements concerning the use of CCTV at the premises.

Operation and Storage:

The CCTV system must be installed and fully operational whilst the venue is open to the public.

The recording equipment will be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and to maintain the integrity of the system.

A record will be kept of any access made to information held on the system.

The system will be regularly maintained and serviced.

The system clock will be checked regularly for accuracy taking account of GMT and BST.

Tapes will be changed daily and kept for 31 days before being re used. Tapes should be replaced after 12 usages (ie annually).

Digital systems will have sufficient storage capacity for 31 days good quality pictures.

The images produced will be date and time stamped.

The CCTV system will be approved by the Police prior to the venue operating under a premises licence.

Access:

It is important that the Police are able to access data from the systems quickly and easily and therefore provision will be made for someone to have access to the secure area and also be able to operate the equipment.

Ensure all operators receive training from the installer when the equipment is installed and that this is cascaded down to new members of staff.

A simple operator's manual will be available to assist in replaying and exporting data (particularly important with digital systems).

02 A minimum of one SIA licensed door supervisor will be on duty from midnight until at least 03:00 hours on Monday to Thursdays and a minimum of 2 on Friday and Saturdays from 23:00 hours until at least 03:00 hours.

The door supervisor will wear a fluorescent and/or reflective orange tabard, clearly marked "door supervisor". The tabard should also be fitted with a clear plastic window on the chest area in which to satisfactorily display the licence issued to the door supervisor by the security industry authority. This condition may be disapplied at the discretion of the police.

This condition will not apply on Monday to Thursday between 1st July and 15th September in any calendar year. During that period of time the premises licence holder will carry out a risk assessment to determine whether there is a need for door supervisors

The Licence holder shall maintain a duty register giving details of each and every person employed in the role of a security/door supervisor and shall provide upon request by any Police Officer or Council Officer the following details:-

- (i) The licence number, name, date of birth and residential address of that person;
- (ii) The time at which he/she commenced that period of duty, with a signed acknowledgement by that person;
- (iii) The time at which he/she finished the period of duty, with a signed acknowledgement by that person;
- (iv) Any times during the period of duty when he/she was not on duty;
- (v) If that person is not an employee of the Licence holder, the name of the person by whom that person is employed or through whom the services of that person were engaged;
- (vi) The register shall be so kept that it can be readily inspected by an authorised officer of the Council or Police Officer;
- (vii) The duty register shall comprise of a bound, consecutively page-numbered book and the Licence holder shall ensure that this register is kept in a secure environment in order to prevent unauthorised access or alterations to the same.

03 All members of staff will be trained in their responsibilities under the Licensing Act 2003 including reference to compliance with the premises licence conditions. Records of their training shall be kept and made available for inspection on the request of a police officer or duly authorised officer of the Local Authority.

04 The tills will automatically switch off at 03:00 hours each day to prevent any further sales of food or drink.

05 No more than 35 customers will be allowed on the premises.

06 Children will not be admitted on the premises after 22:00 hours. In case of doubt, photographic documentary evidence will be required.

-- END --

Annex 3 – Conditions attached after a hearing by the licensing authority

01 A minimum of one SIA licensed door supervisor will be on duty 23:00 hours until close of business on Monday, Tuesday and Wednesday.

02 Two SIA licensed door supervisors on Thursday, Friday and Saturday to include New Year's Eve from 23:00 hours to close of business.

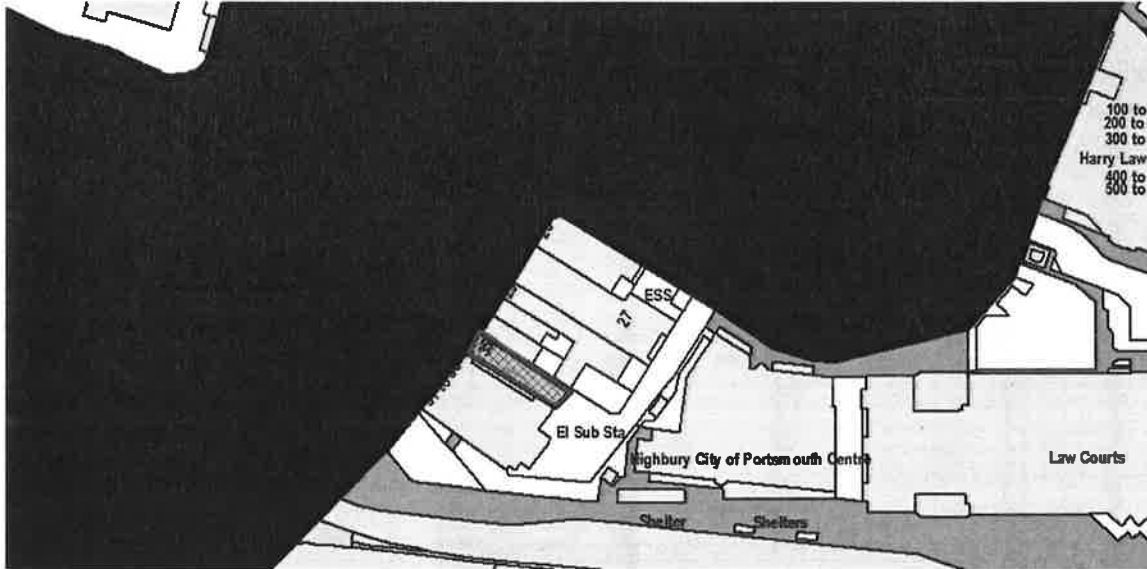
03 On Sundays one SIA door supervisor save for any bank holiday when it shall be a minimum of two, such obligation to cover any extensions to the permitted hours. Such obligations to extend to any close of business upon such extension.

04 All the above obligations to apply over a 52 week period.

05 Mr Naseem Ahmed will not have any involvement with the running of the business known as Ken's Kebabs trading from Guildhall Walk.

-- END --

Location Plan: 35 Guildhall Walk Portsmouth



REPRODUCED FROM THE ORDNANCE SURVEY MAPPING WITH PERMISSION OF THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE © CROWN COPYRIGHT. UNAUTHORISED REPRODUCTION INFRINGES CROWN COPYRIGHT AND MAY LEAD TO PROSECUTION OR CIVIL PROCEEDINGS. LICENCE AGREEMENT NUMBER LA100019671- PORTSMOUTH CITY COUNCIL

Annex 4 – Premises and location plan

Premises Plan(s)

These will either be shown below or attached as a separate part of the premises licence authorisation.



Portsmouth City Council Licensing Service
Core 5, Lower Ground Floor
Civic Offices
Portsmouth
Hampshire
PO1 2AL

Telephone
101

Direct Dial
02392 688314

Fax
01962 874201

Text Relay
18001 101

Email Address
peter.rackham@hampshire.pnn.police.uk

Our ref:
Your ref:

14th September 2017

Dear Sir/Madam

Re: Application for a Variation of Premises Licence, Kens Kebabs, 35 Guildhall Walk, Portsmouth

On Behalf of the Chief Officer of Police, I make representations in relation to the application for a variation of premises licence at Kens Kebabs, 35 Guildhall Walk, Portsmouth.

I make these representations under the grounds of:

- 1) The prevention of crime and disorder

This is following concerns that should the variation be granted that there shall be a negative cumulative impact on the Cumulative Impact Zone where the premises sits. This cumulative impact policy sits within Portsmouth City Councils own statement of licensing policy which was agreed unanimously in July 2017 at a full council hearing.

Kens Kebabs

Kens Kebabs is a late night takeaway situated in Guildhall Walk, Portsmouth. The premises in January 2016 had its licence revoked following a review bought by Hampshire Constabulary which detailed a number of incidents of violence and also a number of occasions where the then premises licence holder allowed the premises to remain open beyond its permitted hours.

Following the revocation the current premises licence holder applied for a new licence at the premises. The licence requested the provision of late night refreshment between 23:00 and 03:00 hours. At the time Hampshire Constabulary made representations with regards to this citing Portsmouth City Councils statement of licensing policy which includes a cumulative impact policy. The committee took the decision to grant the licence.

Currently the premises licence allows the premises to provide late night refreshment between 23:00 and 03:00 hours. The licence also has a number of conditions attach to it which refer to the use of door staff, CCTV and a till system which automatically switches off at the end of licensable hours preventing any persons taking orders at this time.



The applicant has requested to extend their hours until 05:00 hours each night.

The premises is located in the Cumulative Impact Zone.

Cumulative Impact Zone

The Chief Officer of Police would like to draw the committees attention to Portsmouth City Councils statement of licensing policy, particularly around its Cumulative Impact Zone which was agreed unanimously at a full council hearing in July 2017.

Portsmouth City Councils own policy restricts the application for new licensed premises within the CIZ and also restricts the application for an extension of hours for existing premises. It does this by putting the onus on the applicant to show that any application will not negatively impact the CIZ rather than the usual process of the onus being on the person who makes the representation.

As such the Chief Officer of Police respectfully submits that the committee take cognisance of their own statement of licensing policy and cumulative impact policy with regards to this application, the evidence held within it which shows that there is a very real issue with violence in the CIZ within the times that the premises wishes to extend their licence until.

The Chief Officer of Police would also ask that when making their decision the committee also take cognisance of the High Court Judgement of Portsmouth City Council V 3D Entertainment Group (2011).

Summary

The Chief Officer of Police respectfully submits that should this variation be granted that there will be a negative impact on the CIZ. As such the Chief Officer of Police respectfully requests that the committee apply their own Policy and that this application be refused.

When making their decision the Chief Officer of Police also requests that the committee consider what measures the applicant has submitted in order to prevent a negative cumulative impact and ask themselves if these measures will realistically prevent a negative cumulative impact. Should the committee not be satisfied of this then Portsmouth City Councils statement of licensing policy and own Cumulative Impact Policy should be applied in this matter and the application refused.

Yours Sincerely

PC 21945 Rackham
Licensing and Alcohol Harm Reduction Team
Hampshire Constabulary



Licensing Sub-Committee
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
Hants
PO1 2AL

Licensing Service

Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

Phone: 023 9283 4604

Our Ref: 17/03704/LAPREM

Date: 26 September 2017

Dear Members of the Licensing Sub-Committee

Re: Licensing Act 2003 - Application for the Variation of a Premises Licence - Ken's Kebab House 35 Guildhall Walk Portsmouth PO1 2RY

I refer to the recent application for the variation of a premises licence in respect of the premises known as Ken's Kebab House and situated at 35 Guildhall Walk, Portsmouth, PO1 2RY.

On behalf of the Licensing Authority, I would wish to make formal representations in relation to the application on the following grounds:

- Prevention of crime and disorder; and
- Prevention of public nuisance.

The premises licence is held in the name of Mr Usman Naseem Ahmed. This was first issued to Mr Ahmed in April 2017 by the Licensing Sub-Committee following the revocation of the previous licence because of serious incidents of violence and disorder which led to the review of the licence by the Chief Officer of Police.

The applicant is seeking to extend the permitted hours for the provision of late night refreshment until 05:00 hours every day. The current hours are from 23:00 until 03:00 hours every day.

This representation is made on the basis that the Licensing Authority is of the opinion that the variation of this licence to extend the hours for the provision of late night refreshment is likely to add to the existing cumulative impact.

In addition, the applicant has not sufficiently demonstrated in the operating schedule that there will be no negative cumulative impact on one more of the licensing objectives should this application be granted.

Cumulative Impact

Cumulative impact is not mentioned specifically in the 2003 Act but having regard to the Statutory Guidance issued in accordance with section 182 of the Act means:

"The potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area"

The guidance also identifies that in some areas, where the number, type or density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. The guidance recognises the cumulative impact of such problems which generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.

Further queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

The Council, as the Licensing Authority has adopted an approach to cumulative impact in its statement of licensing policy which was adopted in July 2017. Members of the Council voted unanimously in support of the policy and its adoption with no amendments.

In adopting a special policy relating to cumulative impact, the Licensing Authority undertook, as a matter of fact, the following steps:

- Identified concern about crime and disorder and public nuisance;
- Considered that there was good evidence that crime and disorder or nuisance is occurring;
- Identified that these problems are being caused by the customers of licensed premises and that the risk of cumulative impact is evident and ongoing;
- Identified the boundaries of the area where problems are occurring;
- Consulted with those specified in section 5(3) of the Act and as a result included and published details of the special policy in its statement of licensing policy.

The evidential basis for the adoption of this special policy is set out in Appendix B of the Council's statement of licensing policy, a copy of which is attached to this representation.

The effect of adopting a special policy of this kind is to create a rebuttable presumption that **applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations**, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Effect of the grant of later hours in the cumulative impact area

To assist members to gauge the impact and extent of crime and disorder and public nuisance in the identified cumulative impact area, particularly having regard to a number of premises being granted later hours by the Licensing Sub-Committee throughout 2017, a brief analysis was undertaken of offences recorded during Freshers week in September this year compared to last year.

Worryingly, the figures have significantly increased from last year and it is clear that there has been a rise in crime and disorder in the cumulative impact area where incidents are not associated with specific premises.

Equally, the analysis also shows that more incidents are occurring at a later time in the evening compared to last year which may be as a direct result of later opening hours being granted in the cumulative impact area.

Table 1 Total number of offences in CI area during Freshers Week:

Type of Offence:	Total for 2017:	Total for 2016
ABH	9	4
Common Assault	3	0
Attempted GBH	1	0
Sexual Offence	2	0
Public Order	1	1
Attempted Robbery	2	0
Drink Spiking	1	0
Grand Total:	19	5

Table 2 Total number of incidents occurring at or within premises:

Type of Offence:	Total for 2017:	Total for 2016
ABH	7	3
Common Assault	1	0
Attempted GBH	0	0
Sexual Offence	0	0
Public Order	0	0
Attempted Robbery	0	0
Drink Spiking	1	0
Grand Total:	9	3

Table 3 Total number of incidents occurring in the street/vicinity (Cumulative impact area):

Type of Offence:	Total for 2017:	Total for 2016
ABH	2	1
Common Assault	2	0
Attempted GBH	1	0
Sexual Offence	2	0
Public Order	1	1
Attempted Robbery	2	0
Drink Spiking	0	0
Grand Total:	10	2

Table 4 Timings of incidents occurring at or within premises:

Time:	Total for 2017:	Total for 2016
22:00 - 23:00	0	0
23:00 - 23:59	0	0
00:01 - 01:00	3	0
01:00 - 02:00	2	1
02:00 - 03:00	1	0
03:00 - 04:00	0	2
04:00 - 05:00	1	0

Table 5 Timings of incidents occurring in the street/vicinity (Cumulative Impact Area):

Time:	Total for 2017:	Total for 2016
22:00 - 23:00	0	0
23:00 - 23:59	0	0
00:01 - 01:00	2	0
01:00 - 02:00	2	0
02:00 - 03:00	3	1
03:00 - 04:00	4	1
04:00 - 05:00	1	0

Conclusion

It is clear that in considering this application, members must, by default, consider the likely cumulative effect of the proposals put forward by the applicant and whether the Committee are satisfied that the measures are sufficient to negate any increase in the existing cumulative impact.

It is the view of the Licensing Authority and the Chief Officer of Police that if this application were to be granted then there would undoubtedly be a negative cumulative impact on the promotion of the licensing objectives.

Whilst the applicant has identified minimal measures proposed within the operating schedule, incidents of crime and disorder and public nuisance are still prevalent within the cumulative impact area and are disproportionately higher than any other part of the city, particularly in the early hours of the morning. This is evidenced within the Council's statement of licensing policy and the analysis of the impact of Freshers week in the cumulative area could suggest a worrying trend that crime and disorder is now on the increase, specifically in the street and not attributable to any premises in particular.

By increasing the opening hours and availability of late night refreshment until 05:00 hours every day, I am of the view that there will be an undoubtable increase in existing problems thereby introducing additional incidents of crime, disorder and public nuisance than currently exists within the cumulative impact area.

Having regard to my comments above, the Statutory Guidance issued in accordance with section 182 of the Licensing Act 2003 and the Authority's statement of licensing policy, I would urge the Licensing Sub-Committee to refuse the application to vary the premises licence.

Yours sincerely



Nickii Humphreys
Licensing Manager

Email: licensing@portsmouthcc.gov.uk

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Portsmouth
CITY COUNCIL

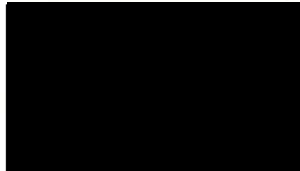
NOTIFICATION OF DECISION

Licensing Act 2003 - Licensing Sub-Committee

PORTSMOUTH CITY COUNCIL as licensing authority in accordance with the Licensing Act 2003 ("the act") and regulations made thereunder, hereby give notice pursuant to section 52 (10) of the act to:

Name: **Mr Naseem Ahmed**

Address:



Status: **Holder**

That a hearing was held on: **18 January 2017**

To consider an application for the **REVIEW of a premises licence** made in accordance with Section 51 of the Act. The details of the licence holder and premises are:

Name of Licence Holder: **Mr Naseem Ahmed**
Premises and address: **Ken's Kebab House
35 Guildhall Walk
Portsmouth
PO1 2RY**

Decision of The Licensing Authority:

In determining and considering the application pursuant to section 52 of the act, the Committee had regard to:

- The Licensing Act 2003
- The promotion of the licensing objectives
- The council's adopted statement of licensing policy for the time being in force
- The statutory guidance issued by the Secretary of State for the time being in force
- Any relevant case law
- The representations (including supporting information) presented by all the parties

PORTSMOUTH CITY COUNCIL, Licensing Service,
Civic Offices, Guildhall Square, Portsmouth, PO1 2AL

Telephone (023 9283 4607/023 9283 4830) • Fax (023 9283 4811) • Email: Licensing@portsmouthcc.gov.uk

Decision:

Revoke

Reasons For Decision:

The premises licence be revoked with immediate effect for the reasons listed below.

Reasons: The committee heard the representations of the licence holder, the relevant Responsible Authorities and the advocate acting upon behalf of the licence holder in addition the committee considered all the papers put before them along with the annexes attached to each document.

The committee was aware that the premise is located within an area of Special Policy. This committee was engaged by reason of referral back to the committee by the relevant Responsible Authorities, namely the Police and Licensing seeking a review of the current licence.

The Responsible Authorities (Police and Licensing) assert that the licensee has failed in the administration of the licence failed to promote the licensing objectives with particular regard to the licensing objectives of crime and disorder, prevention of public nuisance and public safety.

The committee look to all the Responsible Authorities but mainly the Police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, but principally in terms of the Police, prevention of crime and disorder - the committee should but are not obliged to accept all reasonable and proportionate representations made by the Police. The committee take a similar view with respect to the representations made by the Licensing Manager.

The committee have balanced within their consideration all representations made by the licence holder through their advocate and by way of comments made by through his advocate.

In considering the application for review the committee is mindful of the following facts as having been established upon a balance of probability and further that they have been specifically taken to the relevant parts of the Statutory Guidance under section 182 of the Licensing Act 2003.

1. It has been established that a previous employee who served a prison sentence (GBH re a customer) having been the SIA door supervisor (a condition of the original licence grant) was upon release re-employed by the licence holder. The committee were of the view that this of itself is capable of being an imprudent decision on the part of the licence holder that is not concomitant with promotion of the relevant licensing objective in that there is a risk that a repeat response could occur if similar circumstances arose. This said it is accepted that the licence holder could re-employ an ex member of staff but are concerned about how appropriate management of the employer could be dealt with.

2. The Licensing Committee are entitled to conclude that on the 11th March 2016 there was no SIA presence at the premise for a period of time. A material breach of the licensing conditions of original grant occurred. Further given the licence holders previous high level of engagement with all the responsible authorities that it is fair and reasonable conclusion that the licence holder knew of the material failure and deliberately acquiesced or that if he did not know that the systems in place were such that upon attendance at the premise the failure would have been obvious and thereafter capable of rectification by way of forward planning or back up option.
3. The committee are cognizant of a range of incidents occurring in March, October and November 2016, the common theme being crime and disorder, these material breaches coinciding with the continued inability of the licence holder to correctly adhere to the closing times set out in the original licence. The Licensing Committee had seen the email train dealing with the warnings provided by the Police and are entitled to conclude that the assurance of the licence holder were either ignored or that the management in place at the establishment was lacking to the extent that breaches were not dealt with and the primary conditions of the licence complied with.
4. The Committee had heard the clear admission by the licence holder that on five separate (known) occasions he opened his premises beyond his permitted trading hours. It is not accepted that the behaviour is isolated and that the behaviour was not concomitant with promotion of the licensing objectives.
5. The Committee are also clear that the above material failings undermine the promotion of the licensing objective to the extent that they are when viewed individually or as a range of failings (late opening, no SIA none compliance with primary obligations in the original licence) all being capable of being a public nuisance or raising issues as to maintaining safety:

Whilst the premises licence holders' put forward a range of conditions in an attempt to assuage the Committee, having considered the factual evidence produced by the Police when coupled with additional factual evidence produced by other Responsible Authorities and having reviewed all aspects of the case on balance and having paid due regard to all the circumstance of the case the Committee are entitled to revoke the licence with immediate effect. Again the Committee have looked at the statutory guidance with regard to paragraph 11.20 (cause) and 11.23 (an appropriate and proportionate response) and balanced this with the clear and resolute admission that the licence holder did deliberately breach the licence. It is further stated that the Committee considered the applicability and relevance of paragraph 11.26 but were not persuaded that the sanction of revocation with immediate effect would not be proportionate.

It is only through this this course of action that the licensing objectives will be maintained in a special policy area. The Committee state that each application

for a review shall be considered on merit and with due consideration as to the specific facts of each case.

The premises licence holder has a right to appeal this decision.

Appeal Provisions:

In accordance with the provisions of Schedule 5 of the Act, appeal provisions exist in respect of applications made to the Licensing Authority. Those provisions are outlined as follows:

Where an application for a review of a premises licence is decided under section 52, an appeal may be made against that decision by:

- **The applicant for the review;**
- **The holder of the premises licence; or**
- **Any other person who made relevant representations in relation to the application**

Note: The holder of the licence is to be the respondent in addition to the Licensing Authority in relation to any appeal lodged by the applicant for the review or any other person who made relevant representations in relation to the application.

In accordance with section 52(11) of the Act, a determination under section 52 does not have effect:

- **Until the end of the period given for appealing against the decision, or**
- **If the decision is appealed against, until the appeal is disposed of**

General Provisions About Appeals:

An appeal must be made to the Magistrates' court for the petty sessions area in which the premises concerned are situated.

An appeal must be commenced by notice of appeal given by the appellant to the designated officer for the Magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.¹

Action that may be taken by the Magistrates' Court:

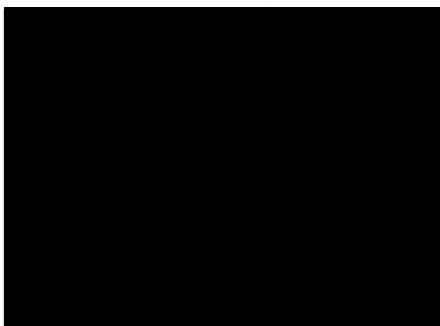
On an appeal against a decision of the Licensing Authority, a Magistrates' court may:

¹ The period of 21 days will commence from the date on which written notice is given, or in the case of electronic transmission, when the text is received.

- dismiss the appeal;
- substitute for the decision appealed against, any other decision which could have been made by the Licensing Authority; or
- remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

Date of Notice: **23 January 2017**



Signed on behalf of the Head of Service
(Authorised Officer)

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Portsmouth
CITY COUNCIL

NOTIFICATION OF DECISION

Licensing Act 2003 - Licensing Sub-Committee

PORTSMOUTH CITY COUNCIL as licensing authority in accordance with the Licensing Act 2003 ("the act") and regulations made thereunder, hereby give notice pursuant to section 23 of the act to:

Name: **Mr Usman Naseem Ahmed**

Address: **Not Recorded**

Status: **Applicant**

That a hearing was held on: **5 April 2017**

To consider an application for the **GRANT of a premises licence** made in accordance with Section 17 of the Act. The details of the applicant and premises are:

Name of Applicant: **Mr Usman Naseem Ahmed**

Premises and address: **Ken's Kebab House
35 Guildhall Walk
Portsmouth
PO1 2RY**

Decision of The Licensing Authority:

In determining and considering the application pursuant to section 18 of the act, the Committee had regard to:

- The Licensing Act 2003
- The promotion of the licensing objectives
- The council's adopted statement of licensing policy for the time being in force
- The statutory guidance issued by the Secretary of State for the time being in force
- Any relevant case law
- The representations (including supporting information) presented by all the parties

Decision:

Grant with conditions

Reasons For Decision:

The committee heard the representations of the applicant, the relevant responsible authorities and the advocate acting on behalf of the applicant. In addition the committee considered all the papers put before it along with the annexes attached to each document.

The committee was aware that the premises is located within an area of Special Policy. This committee was engaged by reason of referral to the committee by the relevant responsible authorities - the police and licensing both of whom make objection to the grant of a licence.

The licensing objectives that are not promoted within the area of Special Policy are: prevention of crime and disorder, public safety and the prevention of public nuisance. The responsible authorities both indicate that the applicant has failed to sufficiently engage in negating any increase to the cumulative impact by reason of having appropriate conditions or measures in place to overcome the legal burden placed upon the applicant.

The committee looked to all the responsible authorities but mainly the police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, but principally in terms of the police, prevention of crime and disorder - the committee should but is not obliged to accept all reasonable and proportionate representations made by the police.

The committee took a similar view with respect to the representations made by the licensing department.

The above stated, the committee balanced within its consideration all representations made by the applicant though his advocate and by way of comments made by the applicant himself.

In considering the application for a grant of licence the committee was mindful of the following facts as having been established upon a balance of probability and further that they have been specifically taken to the relevant parts of the Statutory Guidance under section 182 of the Licensing Act 2003.

Having heard the representations from the applicant and his advocate the committee was satisfied that the burden that rests with the applicant to shift in showing that the new proposed operating schedule in the current application will not have a negative cumulative impact has been shifted.

In coming to this conclusion the committee was shown a new set of conditions and was of the view that the applicant had sufficiently assuaged the cumulative impact by reason of the full range of variations as offered by the applicant, with the following additional conditions imposed by this committee.

Condition A:

- A minimum of 1 SIA licensed door supervisor will be on duty 11pm until close of business Monday, Tuesday and Wednesday.
- Two SIA licensed door supervisors for Thursday, Friday and Saturday to include New Year's Eve from 11pm to close of business.
- On Sundays 1 SIA door supervisor save for any bank holiday when it shall be a minimum of two, such obligation to cover any extensions to the permitted hours. Such obligations to extend to any close of business upon such extension.

- All the above obligations to apply over a 52-week period.

Condition B:

The committee accepted as a condition of the grant of the licence as offered that Mr Naseem Ahmed will not have any involvement with the running of the business known as Ken's Kebabs trading from Guildhall Walk and that the reason for this condition is based upon the following conclusions:

- The statement of Mr Naseem Ahmed dated 3 April 2017 and adduced into the hearing.
- The representations made through his advocate that in due course Mr Usman Ahmed will take over operational control of the business including the other premises outside Guildhall Walk.
- On the assumption that Mr Naseem Ahmed also divests himself of all legal interest in any operating company that currently has an interest in relation to Ken's Kebabs 35 Guildhall Walk, Portsmouth

The licensing committee was aware that any responsible authority, indeed anyone can ask the committee to review the licence currently held which would of course engage this committee in being able to consider the full range of evidence including matters are currently being considered.

The committee considered the following when balancing the factors and noted the above conditions were offered by the applicant and imposed by this committee in the promotion of the relevant licensing conditions.

- This committee considered that the current cumulative impact policy and is of the view that it is sufficiently evidence based to include a full range of premises within it, to specifically include premises that do not sell alcohol.

- Whilst not a condition, the committee observed that with respect to the lines of control between owners and managers that it needs to be made very clear by whom and upon what basis staff are employed, reviewed and disciplined this comment being particularly relevant to any management appointment (especially night time).

- The committee accepted the assurances that Mr Usman Ahmed will be in operational control of the business.

- The committee also recognised the fact that the current application hours are as

currently being used at the premise and additionally that irrespective whether a grant of a new licence was dealt with the business could continue trade in any event.

Appeal Provisions:

In accordance with the provisions of Schedule 5 of the Act, appeal provisions exist in respect of applications made to the Licensing Authority. Those provisions are outlined as follows:

The applicant:

Where the Licensing Authority rejects an application for a premises licence, the applicant may appeal against the decision - *Part 1, paragraph 1(a) of the Act*.

Where the Licensing Authority grants a premises licence, the holder of the licence may appeal against any decision:

- to impose conditions on the licence; or
- to take any step to exclude a licensable activity or refuse to specify a person as premises supervisor - *Part 1, paragraph 2(2) of the Act*.

A person who made relevant representations:

Where a person who made relevant representations in relation to the application desires to contend:

- that the licence ought not to have been granted, or
- that, on granting the licence, the Licensing Authority ought to have imposed different or additional conditions, or should have excluded any of the licensable activities to which the application relates or to refuse to specify a person in the licence as the premises supervisor

he may appeal against the decision – *Part 1, paragraph 2(3) of the Act*.

Note: The applicant for the licence is to be the respondent in addition to the Licensing Authority in relation to any appeal lodged by a person(s) who made relevant representations.

General Provisions About Appeals:

An appeal must be made to the Magistrates' court for the petty sessions area in which the premises concerned are situated.

An appeal must be commenced by notice of appeal given by the appellant to the designated officer for the Magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed

against.¹

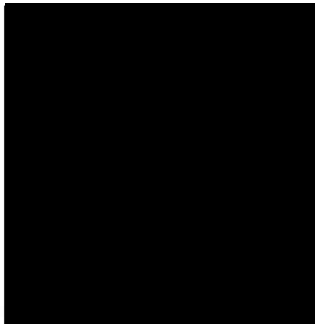
Action that may be taken by the Magistrates' Court:

On an appeal against a decision of the Licensing Authority, a Magistrates' court may:

- dismiss the appeal;
- substitute for the decision appealed against, any other decision which could have been made by the Licensing Authority; or
- remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

Date of Notice: **7 April 2017**



Signed on behalf of the Head of Service
(Authorised Officer)

¹ The period of 21 days will commence from the date on which written notice is given, or in the case of electronic transmission, when the text is received.

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Licensing Act 2003

Section 5 - Statement of Licensing Policy - 2017/2022

www.portsmouth.gov.uk



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1.0 Licensing objectives

1.1 Portsmouth City Council is the Licensing Authority for the Licensing Act 2003 ("the 2003 Act"¹) 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 2003 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

2.1 The City of Portsmouth is situated in the ceremonial county of Hampshire and is at the heart of Britain's southern coastline with long established direct road and rail links to London, the Midlands and Wales.

2.2 Portsmouth is undergoing great change with a £2billion investment plan underway. Elements such as the Tipner motorway junction and park and ride are already completed while there is more to come with new homes, businesses and jobs to come from development sites identified in Tipner and Horsea Island and the exciting regeneration plans for The Hard.

2.3 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.

2.4 As the local highway authority the council is responsible for approximately 458km of vehicular carriageway in partnership with Colas and Ensign.

Up to 90,000 inbound vehicle movements are recorded in any one 24 hour period and previous census data indicates 397 vehicles per 1000 people in Portsmouth. Traffic growth is predicted to generally rise between 19% and 55% by 2040.

2.5 A significant naval port for centuries, it is home to the world's oldest dry dock and to world famous ships including HMS Victory, HMS Warrior 1860 and the Mary Rose. Major investment around the harbour has transformed the "great waterfront city".

Home to Ben Ainslie Racing and hosting the preliminary 2015 America's Cup racing series, the dynamic waterfront city still has an important role as a major dockyard and home base to the Royal Navy.

2.6 The city offers a vibrant mix of entertainment facilities for residents and visitors alike with two established theatres, restaurants, cinemas, concert venues and a variety of pubs and clubs.

The late night economy is well served with venues in the north located at Port Solent, the city centre located near the Guildhall and in the south both at Gunwharf Quays and in Southsea.

Major music festivals are held during the summer months attracting tens of thousands of revellers.

¹ <http://www.legislation.gov.uk/ukpga/2003/17/contents>

3.0 Consultation on the Statement of Licensing Policy

3.1 Section 5 of the 2003 Act requires a Licensing Authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the Act.

3.2 During the five-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 If the Licensing Authority determines and publishes its policy in this way, a new five year period commences on the date it is published. Previously, licensing authorities were required to determine their licensing policies for each three-year period. Licensing policies published in respect of the three-year period that began on 7 January 2011 are to be treated as though they apply to a period of five years beginning at that date.

3.4 This policy will commence on **12 July 2017** and remain in force for five years but will be kept under review subject to further consultation as referred to above.

3.5 Where revisions are made to the section 182 Statutory Guidance by the Secretary of State, it will be for the Licensing Authority to determine whether revisions to its own licensing policy statement are appropriate.

3.6 Before determining its policy, the Licensing Authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- The chief officer of police for the area;

- The fire and rescue authority for the area;
- Each local authority's Director of Public Health in England (DPH)² or Local Health Board in Wales for an area any part of which is in the Licensing Authority's area;
- Persons/bodies representative of local premises licence holders;
- Persons/bodies representative of local club premises certificate holders;
- Persons/bodies representative of local personal licence holders; and
- Persons/bodies representative of businesses and residents in its area.

3.7 The views of all these persons or bodies should 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 industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so. The Licensing Authority notes that the terms of the 2003 Act do not prevent them consulting other bodies or persons.

3.8 Subject to the statutory requirements, it is for each Licensing Authority to determine the extent of the consultation it should undertake, and whether any particular person or body is representative of the groups described in the 2003 Act. While it is clearly good practice to consult widely, this may not always be necessary or appropriate (for example, where a Licensing Authority has recently carried out a comprehensive consultation in relation to a revision to its policy made within five years of a full revision to it). As such, it may decide on a simple consultation with those persons listed.

² This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

3.9 However, licensing authorities should consider very carefully whether a full consultation is appropriate as a limited consultation may not allow all persons sufficient opportunity to comment on and influence local policy, such as a proposal to introduce a cumulative impact policy.

3.10 Fee levels are intended to provide full cost recovery of all licensing functions including the preparation and publication of a statement of licensing policy, but this will be based on the statutory requirements. Where licensing authorities exceed these requirements, they will have to absorb those costs themselves.

3.11 Further advice can be obtained from:

**The Licensing Manager
Licensing Service
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth PO1 2AL**

Tel: 023 9283 4607

Email: Licensing@portsmouthcc.gov.uk

4.0 Fundamental principles

4.1 This statement of licensing policy has been prepared in accordance with the provisions of the 2003 Act and the Statutory Guidance issued under section 182 of the 2003 Act by the Secretary of State.³ This policy should be read as a whole and in conjunction with those provisions.

4.2 This statement is intended to assist officers and members in determining applications and to set out those factors that will normally be taken into consideration. Equally, it 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, it will not ignore or be inconsistent with provisions of the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 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 2003 Act.

4.5 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act.

4.6 Conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. relevant to the premises and its vicinity.

4.7 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.

4.8 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 a holistic approach to the management of the evening and night-time economy in town and city centres.

4.9 Each application will be considered on its own merits and in accordance with this statement of licensing policy; for example, if the application falls within the scope of the cumulative impact policy. Conditions attached to licences and certificates will be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions will be avoided and the licensing authority acknowledges it may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

5.0 Licensable activities

5.1 The Licensing Authority is responsible for considering all applications for licensable activities as defined in section 1 of the 2003 Act.

5.2 Licensable activities are:

- The sale of alcohol by retail;
- The supply of alcohol to club members and their guests;
- The provision of regulated entertainment; and

- The provision of late night refreshment.⁴

5.3 Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable together with those activities which are not and therefore exempt from the regulated entertainment regime. **Appendix C** of this policy sets out in more detail the types of exemptions. The descriptions of entertainment activities licensable under the 2003 Act are:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance; and
- Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

5.4 To be licensable, one or more of the activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

- Take place in the presence of a public audience, or
- Where that activity takes place in private, be the subject of a charge made with a view to profit.

⁴ The supply of hot food or drink to the public or a section of the public on or from any premises whether for consumption on or off the premises between 23:00 and 05:00 hours.

6.0 Duplication

- 6.1 The Licensing Authority will actively 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 appropriate for the promotion of the licensing objectives and are not already provided for in any other legislation.

7.0 Licence conditions

- 7.1 Conditions on a premises licence or club premises certificates are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is considered necessary to emphasise their importance.

Licence conditions:

- Must be appropriate for the promotion of the licensing objectives;
- Must be precise and enforceable;
- Must be unambiguous and clear in what they intend to achieve;
- Should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- Must be tailored to the individual type, location and characteristics of the premises and events concerned;
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;

- Should not replicate offences set out in the 2003 Act or other legislation;
- Should be proportionate, justifiable and be capable of being met;
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.

7.2 Where responsible authorities and other persons do not raise any representations about the application made to the Licensing Authority, it is the statutory duty of the Authority to grant a licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the 2003 Act.

7.3 It is possible that in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed or considered appropriate in order to promote the licensing objectives.

7.4 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 considers it sensible for applicants to seek the views of responsible authorities before formally submitting applications but it acknowledges that there is no legal requirement to do this.

7.5 Whilst the Licensing Authority will not use standardised conditions, it may draw from a pool of conditions where it is appropriate to do so. This pool will be made available to applicants for reference purposes.

8.0 Mandatory licence conditions

- 8.1 The 2003 Act provides for certain mandatory conditions to be applied to premises licences or club premises certificates. **Appendix D** sets out the full list of mandatory conditions that apply at the publication date of this statement of licensing policy.
- 8.2 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 these provisions.

9.0 Enforcement

- 9.1 The Licensing Authority will establish joint-enforcement protocols with the local police and the other authorities as appropriate in order to clarify the division of responsibilities for licence holders and applicants, and will assist enforcement and other authorities to deploy resources more efficiently.
- 9.2 Such 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 or those that are well run.
- 9.3 The principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton and Rogers review principles) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and for example, are more effectively concentrated on problem premises.

The Licensing Authority will also have regard to the established principles contained within the Regulators' Compliance Code.

- 9.4 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 the Police, Department for Work and Pensions or the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 9.5 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 2003 Act and any other associated legislation.
- 9.6 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 2003 Act.

10.0 Entertainment provision

- 10.1 The Licensing Authority is committed to facilitating a broad range of entertainment provision within the city of Portsmouth for the enjoyment by a wide cross-section of the public. The Licensing Authority in wishing to offer such facilities recognises that a balance needs to be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. The Licensing Authority is conscious of the risk that a licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors, and will therefore only seek to impose conditions, when representations are received, that will be

proportionate, justifiable, capable of being met and appropriate for the promotion of the four licensing objectives.

11.0 Need for licensed premises

- 11.1 The Licensing Authority recognises that there can be confusion about the difference between the "need" for premises 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 and is a matter for the planning authority and for the market. This is not a matter for a Licensing Authority in discharging its licensing functions or for its statement of licensing policy.

12.0 The cumulative impact of a concentration of licensed premises

What is cumulative impact?

- 12.1 "Cumulative impact" is not mentioned specifically in the 2003 Act but in accordance with the section 182 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 licensing objectives is a proper matter for the Licensing Authority to consider in developing its licensing policy statement. Cumulative impact policies (CIP) are also commonly known as "stress" or "special policy areas" and may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol.
- 12.2 In some areas, where the number, type or density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder may be arising or

have begun to arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport. Licensing Authorities should consider whether the number of fast food outlets or off licences in an area contribute to these problems, and may choose to include them in their cumulative impact policy.

- 12.3 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 12.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater than the impact of customers on individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.

Evidence of cumulative impact

- 12.5 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. Local Community Safety Partnerships and responsible authorities, such as the police and the local authority exercising environmental health functions, may hold relevant information which would inform

licensing authorities when establishing the base for introducing a special policy relating to cumulative impact into their licensing policy statement. Information which licensing authorities may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:

- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- Statistics on local anti-social offences;
- Health related statistics such as alcohol-related emergency attendances and hospital admissions;
- Environmental health complaints, particularly in relation to litter and noise;
- Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
- Residents' questionnaires;
- Evidence from local councillors;
- Evidence obtained through local consultation.

12.6 The Licensing Authority may consider this evidence, alongside its own evidence as to the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:

- Trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- Changes in terminal hours of premises;
- Premises' capacities at different times of night and the expected concentrations of drinkers who will

be expected to be leaving premises at different times.

12.7 Where existing information is insufficient or not readily available, but the Licensing Authority believes there are problems in its area resulting from the cumulative impact of licensed premises, it can consider conducting or commissioning a specific study to assess the position. This may involve conducting observations of the night-time economy to assess the extent of incidents relating to the promotion of the licensing objectives, such as incidences of criminal activity and anti-social behaviour, examples of public nuisance, specific issues such as underage drinking and the key times and locations at which these problems are occurring.

12.8 In order to identify the areas in which problems are occurring, information about specific incidents can be mapped and, where possible, a time analysis undertaken to identify the key areas and times at which there are specific issues.

12.9 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a Licensing Authority may be satisfied that it is appropriate to include an approach to cumulative impact in its licensing policy statement. The special policy should also be considered alongside local planning policy and other factors which may assist in mitigating the cumulative impact of licensed premises, as set out in paragraph 13.39 of the Statutory Guidance. When the Licensing Authority decides to introduce an approach to cumulative impact, it may decide it is appropriate to indicate in its statement that it is adopting a special policy whereby, when it receives relevant representations, there is a rebuttable presumption that, for example, applications or variation applications which seek to extend the sale or supply of alcohol or provision of late night refreshment are refused or subject to certain limitations.

Steps to a special policy

12.10 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; public safety; public nuisance; or protection of children from harm;
- Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm;
- If such problems are occurring, identify whether these problems are being 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 (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise);
- Consult those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

Effect of special policies

12.11 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give

consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application.

12.12 However, this presumption does not relieve responsible authorities (or any other persons) 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.

12.13 Once adopted, a special policy shall be reviewed regularly to assess whether they are needed any longer or if those which are contained in the statement of licensing policy should be amended.

12.14 The absence of a special policy does not prevent any responsible authority or other person making representations on an 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.

12.15 Special policies may apply to the impact of a concentration of any licensed premises, including those licensed for the sale of alcohol on or off the premises, and premises licensed to provide late night refreshment. When establishing its evidence base for introducing a special policy, licensing authorities should be considering the contribution to cumulative impact made by different premises within its area, in order to determine the appropriateness of including different types of licensed premises within the special policy.

12.16 Contact points so that members of the public, applicants and licence holders can obtain advice about whether or not activities should be licensed are available

in this statement of licensing policy (see paragraph 27).

13.0 Limitations on special policies relating to cumulative impact

- 13.1 A special policy shall never be absolute. The circumstances of each application will be considered properly and applications that are unlikely to add to the cumulative impact on the licensing objectives will be granted.
- 13.2 After receiving relevant 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 appropriate conditions would be ineffective in preventing the problems involved.
- 13.3 Special policies will not be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. Where the Licensing Authority has concerns about the effect of activities at existing premises between midnight and 06:00 hours on the promotion of the licensing objectives in a specific area, it may introduce an Early Morning Alcohol Restriction Order (EMRO) if there is sufficient evidence to do so⁵. 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 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.
- 13.4 Special policies will also not be used to justify rejecting 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 appropriate for the promotion of the licensing objectives.
- 13.5 Every application shall be considered individually. Therefore, special policies will not restrict such consideration by imposing quotas - based on either the number of premises or the capacity of those premises. Quotas that indirectly have the effect of predetermining the outcome of any application will not be used because they have no regard to the individual characteristics of the premises concerned.
- 13.6 The Licensing Authority has considered a number of variations to established premises within the CIP area of Guildhall Walk in recent times and resolved to grant variations after consideration on merit **and** after being satisfied that there would be no negative impact on the promotion of the licensing objectives in determining those individual applications received. This does **NOT** mean that the Licensing Committee are "shunning" the adoptive cumulative impact policy of the Licensing Authority but rather were satisfied with the content and presentation of the applications then

⁵ See chapter 16 of the section 182 Statutory Guidance - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

previously received. Under no circumstances should applicants or their legal representatives assume that the policy has been "watered down" and all parties are reminded of the continued presence of the special policy area and the need to bring forward evidence to rebut any relevant representations about cumulative impact.

14.0 Special policy relating to cumulative impact in Portsmouth

14.1 Having regard to the evidence currently available, the Licensing Authority considers that there is one specific area of Portsmouth where it is appropriate to apply 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 evidence attached as **Appendix B** to this statement of licensing policy.

14.2 This special policy has been subject to review during the latter part of 2016 as part of the overall review of the statement of licensing policy and the available evidence demonstrates that violent crime offences associated with licensed premises are still at such a level to justify retention of the current special policy area.

14.3 The headline trends from this report for the Guildhall Walk night time economy ("NTE") area in the last 3 years show:

- The number of violence offences (purely NTE violence) has **increased** year on year;
- The proportion of violence (purely NTE violence) compared against the whole Portsmouth district 'total violence' is **down** year on year;

- The number of violence offences '*with injury*' (purely NTE violence) has **increased** year on year;
- The number of violence offences '*without injury*' (purely NTE violence) has **increased** year on year;
- The proportion of violence (both DTE and NTE) compared against the whole Portsmouth district is **down** year on year;
- The number of violence offences (both DTE and NTE) has **increased** year on year;
- Saturday remains the peak evening, the proportion of NTE violence that occurs on this day has increased year on year compared to other nights;
- Friday remains the second busiest evening, the proportion of NTE violence that occurs on this day has actually decreased year on year (*the decrease appears to correlate to same amounts as the increase to Saturday's proportion of NTE The proportion of Guildhall Walk NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours violence*);
- The proportion of Guildhall Walk NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours;
- The Guildhall Walk NTE zone accounts for more NTE violence offences than the other 3 NTE zones (Albert Road, Palmerston Road and Gunwharf) combined, both in numerical terms and as a proportion of NTE violence in the NTE Zones.

14.4 The special policy in respect of the Guildhall Walk area applies to the following roads and boundaries:

- **Stanhope Road, Edinburgh Road, Stanhope Road, Willis Road and Commercial Road (from the junction south of Edinburgh Road);**
- **Surrey Street, Station Street (from the junction west of Surrey Street);**
- **Spring Street, Fountain Street;**
- **Isambard Brunel Road, Dugald Drummond Road;**
- **Guildhall Square, King Henry 1st Street, Exchange Road, Spring Gardens, White Swan Road, Guildhall Walk, Alec Rose Lane, Dorothy Dymond St, Charles Dickens Street, The Mary Rose Street;**
- **Winston Churchill Avenue (From Junction of Isambard Brunel Road and Guildhall Walk not including Police station or Courts);**
- **Hampshire Terrace (South to junction of Wiltshire Street);**
- **St Pauls Road (area south to junction of Wiltshire Street).**

14.5 The Licensing Authority will, therefore, normally refuse the grant or variation of premises licences or club premises certificates whenever it receives relevant representations about the cumulative impact on the licensing objectives which it concludes after hearing those representations should lead to refusal.

15.0 Other mechanisms for controlling cumulative impact

15.1 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. For example:

- Planning control;
- 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, 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;
- The confiscation of alcohol from adults and children in designated areas;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- A prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on the grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance; and
- The power of the police, other responsible authorities or other persons to seek a review of a licence or certificate;
- Raising a contribution to policing the late night economy through the Late Night Levy;
- Early Morning Alcohol Restriction Orders.

- 15.2 The Licensing Authority recognises that Safe Space has been running for over 5 years in the Cumulative Impact Area and was a recommendation of the Portsmouth Alcohol Strategy 2009-13. It is currently delivered by South Central Ambulance Service (SCAS). It was set up to provide a one stop shop in the City Centre to support vulnerable people and deflect any minor injuries away from the ambulance service, unnecessary attendances at the A&E department and subsequent admissions.

The service is open from 22:00 until 03:00 hours Friday and Saturday nights and other key dates in the calendar year including New Year's Eve.

In total a total of 473 people were seen by Safe Space, this number grew to 494 in 2016 and in the first quarter of 2017 (Jan - Mar) Safe Space treated 106 people for a wide range of injuries or conditions.

During 2016, the most common recorded reason for attendance was "in drink" (152), this usually means that the individual is heavily intoxicated by drink and requires the most attention and management. The second highest complaint was injury (108) which was an accumulative of all types of injuries.

- 15.3 The Licensing Authority may also wish to consider the use of alternative measures such as fixed closing times, staggered closing times and zoning within its area, providing such mechanisms are justified on the basis of the licensing objectives and are only presumptive, with final decisions continuing to be made in relation to individual premises on a case by case basis in accordance with what is appropriate to promote the licensing objectives. Should the Licensing Authority intend to use such measures in order to orchestrate closing times so as to manage problems in the night-time economy based upon the promotion of the licensing objectives, then a review of this aspect of the policy will be undertaken and will justify its reasons for doing so within its statement of licensing

policy. The Licensing Authority recognises that, as with the creation of a cumulative impact policy, the use of such mechanisms would create a rebuttable presumption and would apply in the event of representations being received.

16.0 Licensing hours

- 16.1 With regard to licensing hours the Licensing Authority recognises that the Government acknowledges that different approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the Licensing Authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However the Licensing Authority will always consider each application and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 16.2 The Licensing Authority recognises that licensed premises make an important contribution to our local community, and that it has a wide range of tools available to effectively manage the different pressures that licensed premises can bring. In determining any appropriate strategies around licensing opening hours, the Licensing Authority will not seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.

17.0 Children

- 17.1 The 2003 Act sets out 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.

17.2 It is an offence under the 2003 Act to:

- Permit children under the age of 16 who are not accompanied by an adult to be present on 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 TEN; and
- 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 TEN.

17.3 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. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the offences under the 2003 Act. The expression "exclusively or primarily" should be given its ordinary and natural meaning in the context of the particular circumstances.

17.4 Where it is not clear that the business is predominately for the sale and consumption of alcohol, operators and enforcement agencies should seek to clarify the position before enforcement action is taken. Mixed businesses may be more difficult to classify and in such cases operators and enforcement agencies should consult where appropriate about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.

17.5 The 2003 Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity 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 provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The 2003 Act includes no presumption of giving children access but equally, no presumption of preventing their access to licensed premises. Each application and the circumstances of individual premises will be considered on their own merits.

17.6 The Licensing Authority will not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm to them⁶. It may not be possible for the Licensing Authority to anticipate, within this policy, every issue of concern that could arise in respect of children in relation to individual premises and therefore the individual merits of each application will be considered in each case.

17.7 However, areas which will give rise to particular concern in respect of children will include premises where:

- Adult entertainment is provided;
- A member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);

⁶ See Chapter 2 of the section 182 Statutory Guidance - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

- It is known that unaccompanied children have been allowed access;
 - There is a known association with drug taking or dealing; or
 - In some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 17.8 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 the Licensing Authority will give careful consideration to this matter. However, in broad terms, this could include topless bar staff, striptease, lap - table - pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sex acts or fetishism, or entertainment involving strong and offensive language.
- 17.9 The Licensing Authority will expect applicants to be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration will also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 17.10 The Licensing Authority may consider a range of alternatives for limiting the access of children where it is appropriate to do so for the prevention of harm to children. These can include:
- Restrictions on the hours when children may be present;
 - Restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of premises to which children may have access;
 - Age restrictions (below 18);
 - Restrictions or exclusions when certain activities are taking place;
 - Requirements for an accompanying adult (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 people under 18 from the premises when any licensable activities are taking place.
- 17.11 Conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is appropriate, it remains a matter for the discretion of the individual licence holder, club or premises user.
- 17.12 Venue operators seeking premises licences and club premises certificates should consider including such prohibitions and restrictions in their operating schedules particularly where their own risk assessments have determined that the presence of children is undesirable or inappropriate.
- 17.13 A child is any person under the age of 18 unless otherwise stated.
- 17.13 The Licensing Authority notes the new amended statutory guidance has now placed emphasis on child sexual exploitation (CSE) matters and accordingly will look to the responsible authorities to be particularly robust and vigilant so far as any CSE matters are concerned at venues holding either a premises licence or club premises certificate.

18.0 Responsible authority and children

- 18.1 The Licensing Authority has determined that Children's Social Care and Safeguarding Service is the body that is competent to act as the responsible authority in relation to the protection of children from harm.

19.0 Children and cinemas

- 19.1 In the case of premises giving film exhibitions, the Licensing Authority expects licence holders 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.
- 19.2 The 2003 Act 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.

20.0 Integration of strategies

- 20.1 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.

The Licensing Authority notes that the statement of licensing policy must have regard to an expectation of preventing crime and disorder pursuant to section 17 of the Crime and Disorder Act 1998.

- 20.2 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.

21.0 Planning and building control

- 21.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 21.2 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.
- 21.3 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
- 21.4 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.

- 21.5 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 those 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.
- 21.6 Officers from planning and licensing services will regularly share 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.
- 21.7 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.
- 21.8 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 use in so far as they relate to any of the licensing objectives.
- 21.9 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.

22.0 Promotion of equality

- 22.1 The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 22.2 The Council is required to publish information at least annually to demonstrate its compliance with the Equality Duty. These details are published on the Council's website.⁷ Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.

23.0 The licensing process and applications

- 23.1 The Licensing Authority expects applicants to have regard to this statement of licensing policy when completing their operating schedule.
- 23.2 In particular, applicants are expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote

⁷ <https://www.portsmouth.gov.uk/ext/the-council/equalities/equality-law-and-its-significance-for-the-council.aspx>

the licensing objectives, that they understand:

- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- Any risk posed to the local area by the applicants' proposed licensable activities; and
- Any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

23.3 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate:

- An understanding of how the policy impacts on their application;
- Any measures they will take to mitigate the impact; and
- Why they consider the application should be an exception to the policy.

23.4 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

23.5 The majority of information which applicants will require will be available within this statement of licensing policy. However, other publicly available sources which may be of use to applicants include:

- The Crime Mapping website;
- Neighbourhood Statistics websites;
- Websites or publications by local responsible authorities;
- Websites or publications by local voluntary schemes and initiatives;
- on-line mapping tools; and
- Any information made publicly available by Public Health to identify key facts in relation to alcohol related harm.

23.6 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The Licensing Authority encourages co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

Applicants and licence holders seeking major variations are advised that the Licensing Authority will not normally carry out a "neighbourhood notification" exercise but **MAY** choose to do so having regard to the nature and scope of the application under consideration (for example a large open air concert with a significant occupancy capacity) and after consideration on merit. Licensing Committee minute 04/2015 refers.

In considering any representations received - those received after the prescribed advertising notification deadline time period will be deemed "late representations" and thus will not be

considered relevant by the Licensing Authority.

23.7 Applicants are expected to provide the Licensing Authority with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in Portsmouth. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

23.8 The Licensing Authority would wish to see all parties working together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to licences/certificates with the minimum of fuss.

23.9 In some circumstances, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

The Licensing Objectives

Crime and disorder

23.10 The Licensing Authority will look to the Police as the main source of advice on crime and disorder. It will also seek advice and guidance when appropriate with the Safer Portsmouth Partnership⁸.

23.11 In exercising its statutory function, the Licensing Authority will aim to co-operate with the Security Industry Authority

("SIA") as far as possible and consider adding relevant conditions to licences where appropriate.

23.12 Conditions, if imposed, will be targeted on deterrence and preventing crime and disorder. For example, where there is a good reason to suppose that disorder may take place, the presence of CCTV cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may choose to use CCTV for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach to the overall promotion of the prevention of crime and disorder objective. The Licensing Authority would wish to ensure that the precise location of cameras are identified on plans to ensure that certain areas are properly covered and to avoid any uncertainty/dispute as to the terms of any condition imposed.

23.13 The inclusion of radio links, ring-round systems or use of ID scanning technology should be considered by applicants for public houses, bars and nightclubs operating in the city centre and other leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the Police and each other which can facilitate a rapid response to any disorder which may be endangering the customers and staff at premises.

Public Safety

23.14 Licence holders have a responsibility to ensure the safety of those persons using their premises, as a part of their duties under the Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

⁸ <http://www.saferportsmouth.org.uk/>

Conditions relating to public safety may also promote the crime and disorder objective as noted above.

There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it will not be the purpose of the condition as this would be outside the Licensing Authority's powers (be ultra vires) under the Act. Conditions will not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

Applicants should give consideration to a number of matters in relation to public safety which may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the Police and signing up for local incident alerts;
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises; and
- Consider the use of CCTV in and around the premises (which may also assist with promoting the crime and disorder objective.

23.15 It is recognised that measures that are appropriate to promote public safety will vary between premises and the examples

listed above may not be applicable in all cases. Applicants should give due consideration when making their application which steps are appropriate to promote the public safety objective and demonstrate how they intend to achieve that.

23.16 Applicants should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

23.17 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it will be inappropriate for a condition to be applied to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it is permissible for the Licensing Authority, if it receives relevant representations, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible Authorities (such as the health and safety authority) will make their expectations clear in this respect so as to enable applicants to prepare effective operating schedules.

23.18 "Safe capacities" will only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the premises. For example, if a capacity has been imposed through other legislation, it will be inappropriate to reproduce it in a premises licence.

Equally, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

23.19 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the Act⁹, the applicant will be expected to conduct their own risk assessment as to the appropriate capacity of the premises. They should then send their recommendation to the fire and rescue authority which will consider it and decide what the "permitted capacity" of those premises should be.

23.20 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public Nuisance

23.21 The Act enables the Licensing Authority and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. In considering the promotion of this licensing objective, the Licensing Authority and responsible authorities will focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern nuisance from noise, light, odour and litter.

23.22 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 may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

23.23 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated design measures to mitigate sound escape from the premises may be appropriate where individual circumstances dictate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (See **Appendix C** for further information concerning regulated entertainment

⁹ Section 177 of the Act now only applies to performances of dance.

exemptions). Any conditions appropriate to promote the prevention of public nuisance will be tailored to the type, nature and characteristics of the specific premises and its licensable activities. The Licensing Authority will avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

23.24 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. The Licensing Authority and responsible authorities will approach such matters with the aim of prevention and when its powers are engaged, it will be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

23.25 Where applications have given rise to representations, any appropriate conditions shall normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a licensing requirement for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

23.26 Measures to control light nuisance will also be given careful consideration. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light nuisance for some neighbours.

Applicants, the Licensing Authority and

responsible authorities will need to balance these issues.

23.27 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it is considered perfectly reasonable for the Licensing Authority to impose a condition, following relevant representations, that require the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

23.28 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Licensing Authority will also consider the need to protect children from sexual exploitation when undertaking licensing functions.

23.29 The Licensing Authority will give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers.

Where a responsible authority, or other person, presents evidence to the Licensing Authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the Licensing Authority will also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, the Licensing Authority will consider what conditions may be appropriate to ensure that this objective is promoted effectively.

The Licensing Authority notes the Home Office guidance to Health Authorities to enable them to carry out their role as a responsible authority and the non-statutory guidance can be found at the link below:

<https://www.gov.uk/government/publications/additional-guidance-for-health-bodies-on-exercising-functions>

23.30 The Licensing Authority will expect an applicant to be precise and clear about the measures proposed to be taken in relation to the protection of children from harm. Consideration should be given to the following matters:

- Applicants shall ensure all frontline staff undertakes training with regard to age restricted sales and the Licensing Act 2003 and that this has been properly documented. It is also expected that licence holders will ensure that all frontline staff receive refresher training every six months or where there is an identified need to do so;

- It is recommended that no member of staff should be permitted to sell alcohol until such time as they have successfully completed this training;
- It is further recommended that training should cover the topics below as a minimum:
 - Sale of alcohol to persons under 18 (penalties);
 - Age verification policies and acceptable forms of identification;
 - Signs of drunkenness and intoxication;
 - Recording refusals;
 - The Licensing Objectives.
 - Applicants and premises licence holders will be expected to take reasonable steps to prevent underage drinking and proxy sales of alcohol to children, both within the licensed premises itself and in the vicinity.

23.31 Further information concerning the protection of children from harm is set out in Chapter 16 of this policy.

Public Health

23.32 Whilst public health is not a licensing objective, health bodies are deemed to be responsible authorities under the Act and may now make representations in respect of applications and call for the review of a premises licence or club premises certificate where they have appropriate evidence to do so and can demonstrate how an applicant's proposals at the specific premises will undermine one or more of the licensing objectives.

23.33 The Licensing Authority recognises that the health and wellbeing of communities can be adversely affected by drinking excess alcohol. National evidence¹⁰

shows that whilst there is little difference in alcohol consumption between people living in more or less deprived areas, people living in the most deprived areas have an almost two-fold greater risk of an alcohol-related death than people living in the least deprived areas.

23.34 Portsmouth has diverse levels of deprivation, the greatest being around the fringes of the city centre and in the north of the city. When compared to the national average, Portsmouth as a whole is significantly worse for alcohol harm.¹¹

23.35 The Licensing Authority recognises that alcohol related harm places increasing demands on the health service and, at a time when unprecedented efficiencies need to be made by the NHS, Police and local authorities. Therefore, preventative steps must be taken in order to protect and improve the health and wellbeing of our community.

23.36 Portsmouth Public Health works closely with the other responsible authorities and plays an active part in contributing to the licensing policy and assisting applicants promote the licensing objectives. Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may be used by the health body to make representations in its own right or to support representations.

23.37 There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.

23.38 Evidence relating to under-18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the

protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.

23.39 As stated in paragraph 23.32, the promotion of public health is not a licensing objective as set out in the Act. However, the Licensing Authority would seek to encourage and support where appropriate, any voluntary initiatives that premises may wish to adopt to help reduce alcohol harm within our communities.

23.40 Such initiatives may include:

- Avoiding the sale of beers, lagers and ciders over 6.5% ABV which are sold in plastic bottles or metallic cans, (Note: this does not include premium, craft or specialist products as these are not a target for problem drinkers);
- Taking steps to consider the display of alcohol in such a manner that will not unduly encourage people to drink irresponsibly and equally limit the exposure children have to alcohol advertising;
- Refraining from placing alcohol products amongst, near or next to confectionary that would usually be consumed by children or young people (which would include till point toys or stickers);
- The use of breathalysers as a means of determining intoxication and supporting door staff decisions not to admit, or serve customers who are already intoxicated;

23.41 The Licensing Authority recognises the value in well run and responsible community pubs and those with an associated offer other than alcohol, like food or entertainment. A shift in drinking patterns and consumption gives rise to concerns that harm from alcohol may now be driven by low cost "off" sales, and not necessarily by sales in pubs. The Licensing Authority also recognises that the more visible harms created by drunk and disorderly behaviour in the night-time economy are also increasingly driven by pre-loading cheap alcohol from shops and supermarkets.

24.0 The Review Process

- 24.1 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 24.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 24.3 An application for review may be made electronically, provided that the Licensing Authority agrees and the applicant submits a subsequent hard copy of the application, if the Licensing Authority requires one. The Licensing Authority may also agree in advance that the application need not be given in hard copy. However these applications fall outside of the formal electronic application process and may not be submitted via GOV.UK or the Licensing Authority's electronic facility.
- 24.4 In addition, the Licensing Authority must review a licence if the premises to which it relates was made the subject of a closure order by the Police based on

nuisance or disorder and the Magistrates' Court has sent the Authority the relevant notice of its determination, or if the Police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

- 24.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate.

Therefore, the Licensing Authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for the Licensing Authority to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the Police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

- 24.6 Where the Licensing Authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. Further information on how the Licensing Authority should achieve this separation of responsibilities can be found in Chapter 9 of the Statutory Guidance.

- 24.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives.

Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as 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.

- 24.8 Where the Licensing Authority receives a geographic cluster of complaints, the authority will consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the Licensing Authority will also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of the Statutory Guidance.

- 24.9 Representations must be made 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. Representations may be made electronically, provided the Licensing Authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

- 24.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

- 24.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the Licensing Authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of the Statutory Guidance.

24.12 **Repetitious grounds of review**

A repetitious ground is one that is identical or substantially similar to:

- A ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- Representations considered by the Licensing Authority when the premises licence or certificate was granted; or
- Representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 24.13 The Licensing Authority is aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the Licensing Authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Statutory Guidance recommends that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 24.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 24.15 When the Licensing Authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.
- 24.16 **Powers of the Licensing Authority on the determination of a review**
- The 2003 Act provides a range of powers for the Licensing Authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 24.17 The Licensing Authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent the Licensing Authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. The Licensing Authority regards such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 24.18 However, where responsible authorities such as the Police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, The Licensing Authority will not merely repeat that approach and will take this into account when considering what further action is appropriate.
- 24.19 Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- 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 or opening or by requiring door supervisors at particular times;
 - 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);

- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

24.20 In deciding which of these powers to invoke, the Licensing Authority will seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken will generally be directed at these causes and will always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

24.21 For example, the Licensing Authority will be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

24.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

24.23 The Licensing Authority also notes that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the

licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the Licensing Authority will not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

24.24 Reviews arising in connection with crime

A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. The Licensing Authority does not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The Licensing Authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

24.25 Reviews are part of the regulatory process introduced by the Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the Licensing Authority to determine whether the problems

associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the Licensing Authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

24.26 Where the Licensing Authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the Licensing Authority is still empowered to take any appropriate steps to remedy the problems. The Licensing Authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

24.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;

- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

24.28 The Licensing Authority, the Police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, revocation of the licence – even in the first instance – will be seriously considered.

24.29 Review of a premises licence following persistent sales of alcohol to children

The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures).

However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps

to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

25.0 Late Night Levy

- 25.1 The Licensing Authority acknowledges that the Police Reform and Social Responsibility Act 2011 enables a licensing authority to charge a levy on persons who are licensed to sell alcohol late at night in the authority's area (between midnight and 06:00 hours), as a means of raising a contribution towards the costs of policing the late-night economy. The option of introducing such a levy will be kept under review by the Council.¹²

26.0 Early Morning Restriction Orders (EMROs)

- 26.1 In addition to the provisions contained within the Police Reform and Social Responsibility Act 2011 for the Late Night Levy, there is an additional power for the Licensing Authority to restrict sales of alcohol in the whole or part of their areas for any specified period between midnight and 06:00 hours if it considers it appropriate for the promotion of the licensing objectives. Again, the option of introducing an EMRO will be kept under review by the Council.

¹² See additional amendments in Section 142 of the Crime and Policing Act 2017

27.0 Administration, exercise and delegation of functions

- 27.1 The Act provides that the functions of the Licensing Authority (including its determinations) are to be taken or carried out 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). Where licensing functions are not automatically transferred to the Licensing Committee, the functions must be carried out by the Council as a whole and not by its Executive. 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 out in the table at 26.4.
- 27.2 The Act does not prevent the development by the Licensing Authority or other Licensing Authorities for work of a purely administrative nature, e.g. mail-outs. In addition, such administrative tasks may be contracted out to private businesses. But any matters regarding licensing decisions must be carried out by the Licensing Committee, its sub-committee or officers.

The Licensing Authority recognises that licensing hearings must be fair and impartial so as to accord with the Human Rights Act 1998. Accordingly, any and all licensing decisions determined by the

Licensing Committee (or Licensing Sub-Committee) will be made by councillors who have received appropriate and comprehensive training on both the Licensing Act (and statutory regulations) together with training on the general principles of good administrative law relating to the rules of natural justice, bias and conduct at meetings. The training will also acknowledge any standing orders and/or codes of conduct applicable to elected members and no councillor may sit and adjudicate on any licensing matter without first receiving such training.

- 27.3 Where, under the provisions of the Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objections to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters will be dealt with by officers in order to speed matters through the system. The Licensing Committee shall receive regular reports on decisions made by officers so that they maintain an overview of the general situation.

27.4 Table: Delegation of Functions

Matters to be dealt with	Sub-Committee	Officers
Application for personal licence	If an objection	If no objection made
Application for personal licence with unspent convictions (upon receipt of an objection notice from Police)	All cases	
Revocation of a personal licence following convictions coming to light after grant of licence (upon receipt of an objection notice from Police) ¹³	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If an objection	All other cases
Applications for interim authorities	If an objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Application by the Chief Officer of Police for the summary review of a premises licensed for the sale of alcohol by retail	All cases	
Decision on whether a representation is irrelevant, frivolous or 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 an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

¹³ See para 124 of The Licensing Act 2003

28.0 Contact Details

Contact Details for Licensing Authority and other Responsible Authorities	
<p>Licensing Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4607 or 023 9268 8367 Fax: 023 9283 4811 Email: licensing@portsmouthcc.gov.uk</p>	<p>The Chief Officer of Police Hampshire Constabulary Portsmouth Licensing and Alcohol Harm Reduction Team Licensing Office Civic Offices Guildhall Square Portsmouth PO1 2AL</p> <p>Tel: 101 Direct Dial: 023 9268 8314 Email: force.licensing@hampshire.pnn.police.uk</p> <p>Please note that the Police will not accept electronic applications unless agreed in advance.</p>
<p>Regulatory Services (Pollution Control) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8366 Email: tradingstandards@portsmouthcc.gov.uk</p>	<p>Regulatory Services (Business Support) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8362 Email: pubprot@portsmouthcc.gov.uk</p>
<p>Trading Standards Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4689 Email: pubprot@portsmouthcc.gov.uk</p>	<p>Children's Social Care and Safeguarding Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9282 2251 Email: safeguardingnotifications@portsmouthcc.gov.uk</p>

<p>The Chief Fire Officer Hampshire Fire and Rescue Service HQ Leigh Road Eastleigh Hants SO50 9SJ</p> <p>Tel: 023 9285 5180 Email: csprotection.admin@hantsfire.gov.uk</p>	<p>Head of Planning Service c/o Assistant Director of Culture & City Development Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Email: planning@portsmouthcc.gov.uk</p>
<p>Director of Public Health Portsmouth City Council Civic Offices Guildhall Square Portsmouth PO1 2BY</p> <p>Tel: 023 9284 1779 Email: publichealth@portsmouthcc.gov.uk</p>	<p>The Home Office (Immigration Enforcement) Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY</p> <p>Email: Alcohol@homeoffice.gsi.gov.uk</p>
	<p>In respect of vessels only:</p>
<p>Where relevant: Health and Safety Executive Priestley House Priestley Road Basingstoke Hants RG24 9NW</p> <p>Tel: 0203 028 1570 Email: advice@hse.gov.uk</p> <p><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>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 Email: portsmouth@ghm.mod.uk</p>
<p>Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG</p> <p>Tel: 0203 817 2000 Email: infoline@mcga.gov.uk</p>	<p>Environment Agency Solent & Southdowns Office Guildbourne House Chatsworth Road Worthing West Sussex BN11 1LD</p> <p>Tel: National Call Centre 03708 506 506 (Mon - Fri 0800 until 1800) Email: enquiries@environment-agency.gov.uk</p>

APPENDIX A

Map of Portsmouth



APPENDIX B

Hampshire Constabulary supporting information and map for Special Policy Area - Cumulative Impact

1.0 Background

Portsmouth district has a mixed use city centre surrounded by a densely populated residential areas. Operationally this imposes significant demands upon emergency services and the wider partnership

The demands of policing the Night Time Economy (NTE) within Portsmouth place a heavy demand on the police and Portsmouth City Council (PCC). This in terms of resources to minimise the effects of drink related crime and disorder and ensure public safety

There is an ongoing campaign to cut alcohol fuelled crime and disorder in Portsmouth and reduce the burden on public health, it is supported by Portsmouth Safe City Partnership covering a wide spectrum of partners, stakeholders and voluntary services.

There are a significant number of persons who live outside the city, visiting attractions such as the Guildhall, Gunwharf, theatres, restaurants and shopping complexes beyond the NTE in Portsmouth. The city also hosts headline events such as Victorious Festival, Portsmouth Summer Show, Mutiny, Oktoberfest and the Admirals Cup to list a few

The successful and vibrant NTE in Portsmouth attracts tourists, local residents and students into the licensed venues. There are 4 distinct Night Time Economy (NTE) zones;

- *Guildhall Walk (cumulative impact policy zone)*
- *Gunwharf*
- *Central Southsea (Albert Road NTE zone)*
- *Portsmouth South (Palmerston Road NTE)*

A further area is also monitored for NTE related violence, this being North End. The principal area is a small section of London Road with a concentration of mixed use licensed premises, these include fast food establishments, restaurants, on and off licences. The levels of residential crime is also captured, this to monitor if this is an emerging NTE hotspot

The impact of the NTE has historically imposed a disproportionately negative impact on crime and disorder levels within the Portsmouth district and those 4 NTE zones. Post 2008 a vast investment from police and partners in resources has significantly reduced these levels, including the introduction of the Cumulative Impact Policy (CIP) zone within the PCC Statement of Licensing policy.

The introduction of the CIP areas for Guildhall Walk and surrounding vicinity has had a significant impact reducing crime and disorder, helping to promote the licensing objectives within licensed premises captured within this policy

The key signal crime types are assaults, sexual offences, robberies and alcohol related ASB, however, for the purposes of this report I have focussed on purely violence offences under the HMIC tree group 9. Those that relate to both violence '*with injury*' and '*without injury*'.

In compiling this report the Record Management System (RMS) used by Hampshire Constabulary to record all occurrences whether crime or non-crime has been used to provide relevant evidence. A further IT system known as 'business objects' provides a tool to analyse this data.

Recorded crime data has been used rather than 'calls for service' incidents reported to the Force Control Room, although demand data is valuable it will not capture all 'hidden demand'

2.0 Crime Data

[1] Geographical data (Portsmouth district)

The level of crime and disorder within Portsmouth, particularly its NTE zones has largely reduced year on year since 2008, this has mirrored local and national crime trends. There are a number of contributory factors particularly; smarter partnership approach around alcohol harm reduction, regulatory enforcement (including the CIP) and the economy recession world wide.

In the period since 2008, Hampshire Constabulary has adapted to the crime recording and classification changes introduced by the Home Office, this makes comparative interpretation of police crime data throughout this period more difficult. There has also been a greater drive to ensure crime data integrity by police forces nationally, this accounts for an increase 2015-2016 which is evident in Hampshire and across all force areas nationally.

(Refer Annexe 1 - Key guidance on crime data integrity)

The police and Portsmouth Safe City Partnership have used data, known colloquially as LNEP. This data set was only formed of the key arterial streets and roads in the 4 NTE zones, however, failed to have the interconnecting streets (particularly the Guildhall Walk NTE zone) which fails to give a fully accurate insight into violence levels within the NTE zones.

A business objects search process has been built, the intention is to provide the most accurate crime data integrity for each NTE zone. The process involved agreeing the outer perimeter and those streets and roads within the NTE zone, the existing CIP zone for Guildhall Walk was used.

The limitations of the police reporting system known as RMS does not facilitate geo post coding, at present, so will capture some residential crime (non NTE related violence offences) on certain streets that form the outer perimeter of a zone. Conversely there may be NTE related violence that occurred outside of the NTE zones but not captured in search function.

Comparison of violence within Portsmouth District

HMIC Crime Tree (9 group) - Violence	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	Portsmouth District 'Total Violence' % of force violence
2014-15	4	2294	2557	4855	17.27% (4855 / 28108)
2015-16	3	3210	4118	7331	17.03% (7331 / 43047)
2016-17 (jan)	3	2910	4271	7184	17.36% (7184 / 41388)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

The Portsmouth district has steadily accounted for around 17% of the whole Hampshire Constabulary 'Total Violence' for each of the last 3 performance year periods.

The Portsmouth district has been transformed administratively from 4 into 3 sectors, in the last 18 months. The 4 NTE zones are predominantly in two of those sectors, an analysis of the distinct NTE zones is the focus for this report rather than those neighbourhood sectors.

Comparison of violence within Portsmouth District sectors

HMIC Crime Tree (9 group) - Violence NTE related violence both DTE & NTE	Homicide	NTE Violence (with injury)	NTE Violence (w/out injury)	NTE Total Violence	NTE violence as % of Portsmouth District 'Total Violence'
Portsmouth District	0	711	833	1544	21.50% (1544 / 7184)
Portsmouth Central Sector	0	428	496	924	12.86% (924 / 7184)
Portsmouth North Sector	0	23	26	49	0.68% (49 / 7184)
Portsmouth South Sector	0	260	311	571	7.94% (571 / 7184)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

The NTE accounts for 21.49% of the 'Total Violence' absorbed within the whole Portsmouth district total in the last performance year, this has reduced year on year from 26.38% in 2014/15. This figure covers both DTE and NTE violence data, this proportion actually mirrors the proportion of NTE violence within Southampton District.

The proportion of violence (both DTE and NTE) compared against the whole Portsmouth district is **down** year on year, whereas the number of violence offences (both DTE and NTE) has **increased** year on year.

Comparison of violence within Portsmouth District NTE zones (both DTE and NTE)

NTE Zones (Portsmouth) both DTE & NTE violence	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	659	622	1281	26.38% (1281 / 4855)
2015-2016	0	821	777	1598	21.80% (1598 / 7331)
2016-2017 (Jan)	0	711	833	1544	21.49% (1544 / 7184)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

In the current performance year 2016/17 (jan) the proportion of violence offences within the NTE zones (both DTE and NTE) represents 3.73% (1544 / 41388) of the whole Hampshire Constabulary 'Total Violence'.

Comparison of violence within Portsmouth District NTE zones (NTE violence only)

NTE Zones (Portsmouth) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	507	412	919	18.93% (919 / 4855)
2015-2016	0	655	478	1133	15.45% (1133 / 7331)
2016-2017 (Jan)	0	564	485	1047	14.57% (1047 / 7184)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

A further analysis purely on NTE violence (1900 and 0700 hours) shows the actual number of crimes has increased, however, there is a downward trajectory in terms of the NTE having a less disproportionate impact on the 'Total Violence' for the Portsmouth district.,

The general trend following national changes to drive up crime data integrity and recording standards was an increase in all crime types, including violence offences.

A further trend evident just in the figures above show the proportion of NTE violence offences 'with injury' are increasing, as are those 'without injury' are increasing.

[2] NTE Zones (Portsmouth district)

Comparison of violence within Guildhall NTE

Guildhall Square

NTE Zones Location Grouping (violence only)	Count Occ_Ref	Count NTE	NTE %	Count DTE	DTE %	% of district Violence (NTE only)
2014-2015	544	420	77.21%	122	22.43%	8.65% (420 / 4855)
2015-2016	647	499	77.13%	148	22.87%	6.80% (499 / 7331)
2016-17 (Jan)	660	471	71.36%	187	28.33%	6.56% (471 / 7184)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

The NTE for the Guildhall Walk covers the surrounding vicinity, including commercial road and streets where prominent nightclubs and licensed premises are located. This is the principal NTE zone and has the highest footfall, it has a 'Cumulative Impact Policy' in place.

The general trend for the last 3 years shows the proportion of NTE violence offences occurring in this zone from 1900 to 0700 hours has reduced, likewise it represents a reducing proportion (currently at 6.56%) of the 'Total Violence' for the Portsmouth district.

The actual occurrence count reference spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards

Comparison of NTE violence only within Guildhall NTE

Guildhall Square (incl Commercial Rd) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	232	188	420	8.65% (420 / 4855)
2015-2016	0	295	204	499	6.80% (499 / 7331)
2016-2017 (Jan)	0	269	204	471	6.56% (471 / 7184)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

An emerging trend evident is the number of violence offences 'with injury' are increasing in this zone, as are those 'without injury'. This suggests that although the proportion of violence offences are reducing, the severity of the **violence is increasing**.

Comparison of other NTE zones within Portsmouth District

Central Southsea (Albert Road NTE) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	68	79	147	3.01% (147 / 4855)
2015-2016	0	75	73	148	2.01% (148 / 7331)
2016-2017 (Jan)	0	84	83	167	2.32% (167 / 7184)
Gunwharf NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	75	37	112	2.30% (112 / 4855)
2015-2016	0	141	70	211	2.88% (211 / 7331)
2016-2017 (Jan)	0	68	55	123	1.71% (123 / 7184)
North End / London Road NTE & residential violence	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	73	56	129	2.66% (129 / 4855)
2015-2016	0	72	79	151	2.06% (151 / 7331)
2016-2017 (Jan)	0	89	83	172	2.39% (172 / 7184)

Portsmouth South (Palmerston Road NTE) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	58	51	109	2.25% (109 / 4855)
2015-2016	0	71	49	120	1.64% (120 / 7331)
2016-2017 (Jan)	0	54	60	114	1.59% (114 / 7184)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

The data for the last 3 years shows all the NTE zones have shown a slight increase in number of violence offences, this increase is mirrored for all relating to violence 'without injury' offences. Conversely, despite this numerical increase, there is a universal downward trend in the proportion as measured against 'Total Violence' for the Portsmouth district.

The number of more serious violence 'with injury' offences has increased in Albert Road and North End, the latter is not an NTE zone and its figures cover NTE and other residential location violence offences.

The NTE zones of Gunwharf and Palmerston Road (and surrounding areas) have shown a slight decrease in this classification of offences.

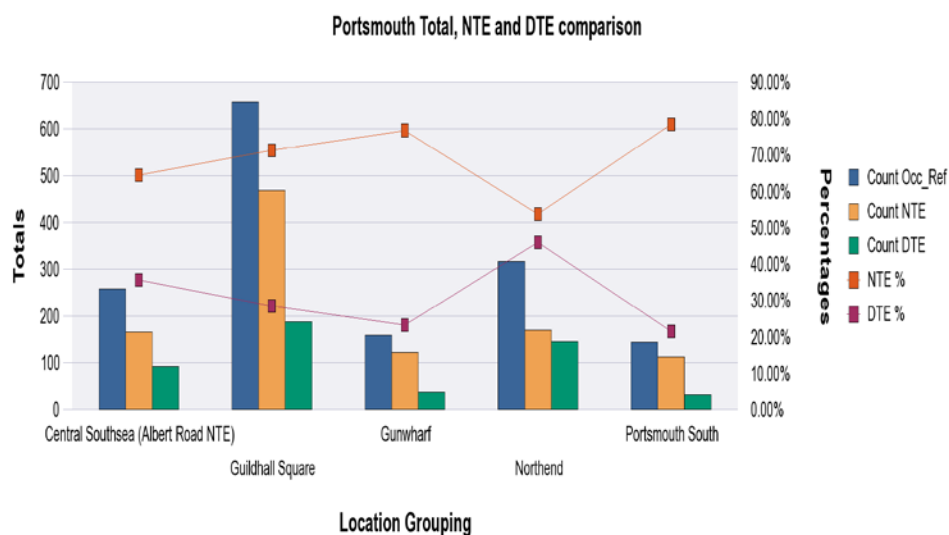
The Guildhall Walk NTE zone accounts for more NTE violence offences than the other 3 NTE zones (Albert Road, Palmerston Road and Gunwharf) combined, both in numerical terms and as a proportion of NTE violence in the NTE Zones.

The actual occurrence count reference spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards.

This proportion and number of DTE crime compared to the NTE have both increased (refer below). The data set measured the times the offence occurred, rather than when it was recorded.

This would tend to support the hypothesis that generally NTE crime levels are falling, rather than DTE crime levels escalating or due to recording anomalies. This is an area to monitor and analyse in greater depth if the trends remain.

Comparison of NTE & DTE violence in the Portsmouth District NTE zones 2016/17 (Jan)



[3] Temporal trends within the NTE Zones (Portsmouth district)

Temporal comparison of NTE violence only within Portsmouth District (weekends)

2014-15

NTE	19	20	21	22	23	0	1	2	3	4	5	6	Total
Mon/Tue	5	3	4	4	11	10	9	16	3				65
Tues/Wed	5	2	7	8	3	14	9	8		1	1	1	59
Wed/Thur	7	4	5	8	13	14	18	8	1	2	2		82
Thur/Fri	5	5	5	13	12	17	12	17	6	2	5	1	100
Fri/Sat	4	11	13	18	31	55	55	49	24	19	4		283
Sat/Sun	8	7	11	19	26	55	49	49	23	5	2		254
Sun/Mon	3	4	3	14	8	16	11	6	3	1		2	71
Blank						1							1
Total	37	36	48	84	104	182	163	153	60	30	14	4	915

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2015

2015-16

NTE	19	20	21	22	23	0	1	2	3	4	5	6	Total
Mon/Tue	3	3	5	11	8	15	11	13	5	2		1	77
Tues/Wed	4	6	11	4	8	7	9	13	4		3	1	70
Wed/Thur	9	3	13	3	12	18	16	6		3		4	87
Thur/Fri	7	9	6	17	11	18	22	34	6	6	3		139
Fri/Sat	8	7	9	14	29	52	48	60	52	17	3	3	302
Sat/Sun	10	14	19	29	61	87	53	43	33	9	2		360
Sun/Mon	8	9	7	4	17	24	11	5	1	1	2	2	91
Total	49	51	70	82	146	221	170	174	101	38	13	11	1126

Figures from Hampshire Constabulary RMS business objects 01/04/2015-31/01/2016

2016-17 (Jan)

NTE	19	20	21	22	23	0	1	2	3	4	5	6	Total
Mon/Tue	12	8	13	9	2	12	7	10	5	3	2	4	87
Tues/Wed	6	12	1	8	8	18	8	8	2		2	1	74
Wed/Thur	7	5	4	10	6	11	10	6	9	3	1		72
Thur/Fri	5	11	4	10	10	20	14	20	17	8		2	121
Fri/Sat	4	10	17	13	37	39	47	34	19	7	3	2	232
Sat/Sun	8	12	13	36	36	64	65	41	46	19	2	4	346
Sun/Mon	8	11	12	10	16	19	12	10	2	1	3		104
Blank						2							2
Total	50	69	64	96	115	185	163	129	100	41	13	13	1038

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

2014/15

- 58.69% of NTE Violence data relates to purely Fridays and Saturdays (537/915);
 - Friday data (283) represents 30.93% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0500 hours;
 - Saturday data (254) represents 27.76% of total occurring between 1900 to 0700 hrs, peak times being 2100 to 0400 hours;
 - Thursday data (100) represents 10.93% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0300 hours;
 - Wednesday data (82) represents 8.96% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0300 hours (student society day);
 - Small peaks on Sunday (2200 to 0200 hours) and Monday (2300 to 0300 hours) were apparent, without further research these are likely to align to student led promotion nights or events.

2015/16

- 58.79% of NTE Violence data relates to purely Fridays and Saturdays (662 / 1126);
 - Friday data (302) represents 26.82% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0500 hours;
 - Saturday data (360) represents 31.97% of total occurring between 1900 to 0700 hrs, peak times being 1900 to 0500 hours
 - Thursday data (139) represents 12.34% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0300 hours;
 - Small peaks on Sunday (2300 to 0200 hours) and Monday (2200 to 0300 hours) were apparent, without further research these are likely to align to student led promotion nights or events.

2016/17 (Jan)

- 55.69% of NTE Violence data relates to purely Fridays and Saturdays (578 / 1038);
 - Friday data (232) represents 22.35% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0500 hours;
 - Saturday data (346) represents 33.33% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0500 hours;
 - Thursday data (121) represents 11.61% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0400 hours;
 - Small peaks on Sunday (2000 to 0300 hours) and Monday (1900 to 0300 hours) were apparent, without further research these are likely to align to student led promotion nights or events.

Trends

- The NTE violence spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards, this represented a 23% increase from 2014/15 (915 to 1126);
- The NTE violence has slightly reduced in 2016-17, at present it is 7.83% reduction than the previous year (1126 down to 1038). However there are still 2 months of the reporting year that **will** change this aspect;
- Comparing the years 2014/15 and just this current incomplete year 2016/17 (Jan) shows a 13.44% increase in NTE violence (915 up to 1038), the greater crime data integrity will have a factor in this increase but the true extent is not easy to determine;
- The proportion of NTE violence from Friday and Saturday evenings has reduced slightly in the last reporting year by 3.10%, when measured against whole NTE violence when the previous 2 years it was a constant proportion at 58-59%;
- The trends have remained; Thursday (11.61%) and Sunday (10.02%) are the next busiest nights for NTE violence. There is a vibrant student population in the NTE, this does account for peaks on Sundays, including spikes on Monday nights;
- The peak night is Saturday night, the proportion of NTE violence occurring on this night has risen year on year from 27% to 33%, a concerning trend is that the peak times have widened from 2100 to 0400 hours. This is now 2000 to 0500 hours;
- The second busiest night is Friday, however, proportion of NTE violence occurring on this night has reduced year on year from 30% to 22% , its peak times being 2000 to 0500 hours have remained constant throughout.

Comparison of the proportion of NTE violence on weekends

NTE	2014/15 (% of NTE violence that year)	2015/16 (% of NTE violence that year)	2016/17 (Jan) (% of NTE violence that year)
Thu	10.93%	12.34%	11.61%
Fri	30.93%	26.82%	22.35%
Sat	27.76%	31.97%	33.33%
Yr Total	915	1128	1038
	Variance	(+) 23%	(-) 7.83%

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

[4] Zones, venues & locations (Portsmouth district)

There are a number of premises that recorded more than 10 violence offences linked to their venue incidents in the calendar year, the majority of incidents that occurred between nights of Thursday and Sunday.

The scope of this report is not to drill into those key venues, ongoing licensing engagement with those venues is 'business as usual' as part of a partnership approach. Where any venue experiences higher levels of violence or disorder linked to that venue, there is proportionate, graduated escalation with enforcement the ultimate action.

3.0 Conclusion

The presence of 4 NTE zones, in Portsmouth, places a disproportionate burden on police and partnership resources. This despite there being a downward trend in NTE related violence within Portsmouth since 2008, a trend replicated across Hampshire and Nationally.

The main body of this report demonstrates that the analytical data shows the peak impact times for demand on the Night Time Economy of Portsmouth, the statistics clearly show that there are definite peaks in crime at these times linked to the licensed venues operating in the city centre beyond midnight and also linked to NTE zones.

The actual violent crime occurrence count spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards. This was evident in Hampshire and across all forces nationally. This current year has witnessed a recalibration, the enhanced crime reporting standards are becoming embedded. Accordingly any comparison of the last 3 years violence performance data must account for these factors.

The final key point is that the geography of Portsmouth is densely populated within a 2 square mile area. The ease of mobility (whether on foot or vehicle) occasionally makes it difficult to discern whether alcohol related violence or disorder, on any given road or street, is directly attributable to a NTE zone let alone individual venues. Notwithstanding improving standards of crime recording, the existing crime data methods and technology need to be assessed against these constraints.

[A] Existing CIP area Guildhall Walk NTE (and surrounding vicinity)

The NTE continues to draw Police resources into the city centre (Guildhall Walk NTE and surrounding vicinity) to deal with violence and alcohol related disorder, this is evidenced within the geographical, temporal and location trends.

These show that Portsmouth Guildhall Walk NTE (and surrounding vicinity) has the highest 'total violence' levels. The Portsmouth Central sector contains this NTE and Gunwharf NTE zone, consequently it suffers 'total violence' levels in excess of other sectors within the Portsmouth district.

The Portsmouth South sector contains the NTE zones of Albert Road and Palmerston Road so also experiences relative increased levels of 'total violence', ***in direct contrast*** to the Portsmouth North sector which has no discernible NTE zones so benefits from lower levels of 'total violence'.

While the NTE continues to exist, there will remain a need for police to resource the crime and disorder that results, the introduction of a cumulative impact policy has clearly helped to sustain the existing partnership resources that underpin the NTE infrastructure.

The venues within the Guildhall Walk NTE have clearly worked in unison with this partnership approach. They have raised their compliance with the licensing objectives, the influence and benefits of the CIP zone is a significant, contributory factor to this success

The retention of the existing CIP will sustain improved standards of compliance and encourage best practice, in the last 12 months there have been occasions where the police have objected to applications for later hours.

The merits of each application have to be judged, however, the determination to grant later hours did not support the Portsmouth City Council own CIP policy. The extent of these determinations on NTE related violence and disorder levels will need to be monitored accordingly

The headline trends from this report for Guildhall Walk NTE in the last 3 years show;

- The number of violence offences (purely NTE violence) has **increased** year on year
- The proportion of violence (purely NTE violence) compared against the whole Portsmouth district 'total violence' is **down** year on year
- The number of violence offences '*with injury*' (purely NTE violence) has **increased** year on year
- The number of violence offences '*without injury*' (purely NTE violence) has **increased** year on year
- The proportion of violence (both DTE and NTE) compared against the whole Portsmouth district is **down** year on year
- The number of violence offences (both DTE and NTE) has **increased** year on year
- Saturday remains the peak evening, the proportion of NTE violence that occurs on this day has increased year on year compared to other nights
- Friday remains the second busiest evening, the proportion of NTE violence that occurs on this day has actually decreased year on year (*the decrease appears to correlate to same amounts as the increase to Saturday's proportion of NTE violence*)
- The proportion of Guildhall Walk NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours
- The Guildhall Walk NTE zone accounts for more NTE violence offences than the other 3 NTE zones (Albert Road, Palmerston Road and Gunwharf) combined, both in numerical terms and as a proportion of NTE violence in the NTE Zones

Recommend: This is persuasive argument to justify the existing CIP area being maintained

[B] Other NTE Zones

The body of this report demonstrates that the impact of the other NTE zones within the Portsmouth district in terms of NTE violence is not as disproportionate as Guildhall NTE, this strengthens the persuasive argument to maintain the existing CIP in that zone.

There are natural levels of displacement based around the diversity of venues and NTE zones across the whole Portsmouth district. The benefits of a vibrant, Multiple, smaller and widespread NTE zones should be encouraged

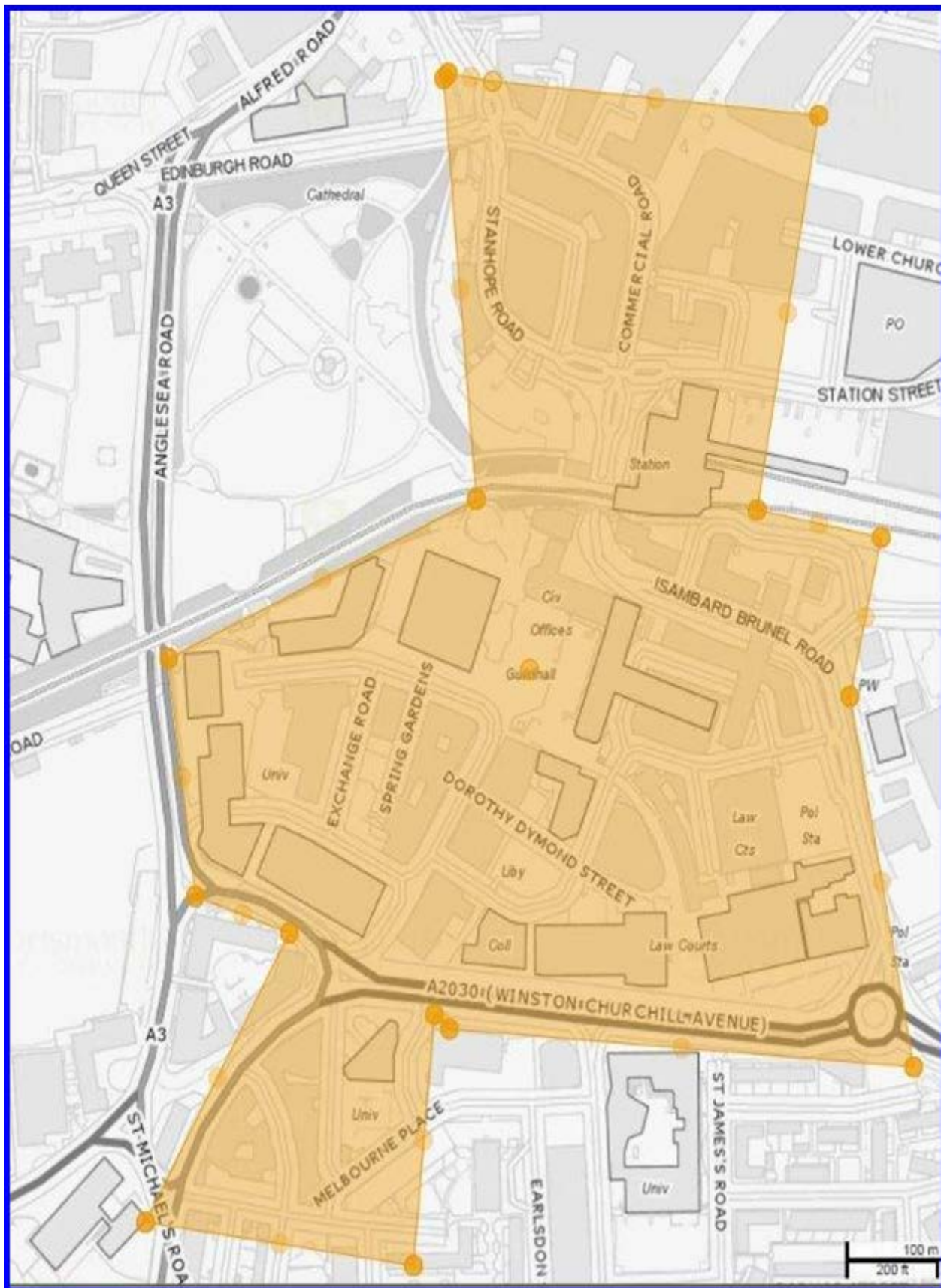
The proportion of NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours

Recommend: This is persuasive argument to justify retaining the existing CIP

This will support wider strategic objectives to encourage a safe, vibrant, diverse and financially successful DTE and NTE across the whole Portsmouth district.

This will benefit those living, working and visiting the city.

Map for Special Policy Area - Cumulative Impact



APPENDIX C

Regulated Entertainment Exemptions

1.0 Types of Regulated Entertainment

Schedule 1 of the Act sets out what activities are to be regarded as the provision of regulated entertainment and when they are licensable and those which are not and are therefore exempt from the regulated entertainment regime.

1.1 The descriptions of entertainment activities licensable under the Act are:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

1.2 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

- Take place in the presence of a public audience, or
- Where that activity takes place in private, be the subject of a charge made with a view to profit.

2.0 Overview of circumstances where entertainment activities are not licensable

There are a number of exemptions that mean that a licence (or other authorisation) under the Act is not required. Whilst it is not possible to give examples of every eventuality or possible entertainment activity that is not licensable, the following

activities are examples of entertainment which is not licensable:

- Activities which involve participation as acts of worship in a religious context;
- Activities in places of public religious worship;
- Education - teaching students to perform music or to dance;
- The demonstration of a product - for example, a guitar - in a music shop;
- The rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar);
- Incidental music - the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film - an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes - or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts - as long as the programme is live and simultaneous;
- Vehicles in motion - at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

3.0 Amendments to the Licensing Act 2003

There have been a number of deregulatory changes to the Act in relation to regulated entertainment, these are listed, for information, below:

- ✓ The Live Music Act 2012; Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2013;
- ✓ The Legislative Reform (Entertainment Licensing) Order 2014; and
- ✓ The Deregulation Act 2015.

4.0 Activities where no licence is needed

4.1 Plays:

No licence is required for performances between 08:00 and 23:00 hours on any day, provided that the audience does not exceed 500.

4.2 Dance:

No licence is required for performances between 08:00 and 23:00 hours on any day, provided that the audience does not exceed 500.

4.3 Films:

No licence is required for "not for profit" film exhibitions held in community premises between 08:00 and 23:00 hours on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that such screening abides by age classification ratings.

4.4 Indoor Sporting Events:

No licence is required for an event between 08:00 and 23:00 hours on any day provided that those present do not exceed 1000.

4.5 Boxing or wrestling entertainment:

No licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.

4.6 Live Music - no licence permission is required for:

- A performance of **unamplified** live music between 08:00 and 23:00 on any day, on any premises;
- A performance of **amplified** live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500;
- A performance of **amplified** live music between 08:00 and 23:00 on any day, in a workplace¹⁴ that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500;
- A performance of **amplified** live music between 08:00 and 23:00 hours on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises;
- A performance of **amplified** live music between 08:00 and 23:00 hours on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500 and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

4.7 Recorded Music - no licence permission is required for:

- Any playing of recorded music between 08:00 and 23:00 hours on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500;

- Any playing of recorded music between 08:00 and 23:00 hours on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- Any playing of recorded music between 08:00 and 23:00 hours on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organisers gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

4.8 Cross activity exemptions - no licence is required between 08:00 and 23:00 on any day, with no limit on audience size for:

- Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
- Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by on behalf of the health care provider;
- Any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- Any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

4.9 Local authorities, hospital healthcare providers and school proprietors: cross-entertainment activity exemption

No licence is required for any entertainment provided by or on behalf of a local authority, health care provider, or school proprietor to the extent that it takes place on defined premises, between 08:00 and 23:00 hours on any day provided that:

- For entertainment provided, or on behalf of, a local authority it takes place on premises in which that authority has a relevant property interest, or is in lawful occupation;
- For entertainment provided by, or on behalf of, a health care provider it takes place on any premises forming part of a hospital in which the provider has a relevant property interest, or is lawful occupation; and
- For entertainment provided by, or on behalf of, a school proprietor it takes place on the premises of the school.

4.10 Local authority, hospital and school premises: third party music entertainment

No licence is required for a performance of live music or the playing of recorded music on local authority, hospital or school premises, that are not domestic premises, between 08:00 and 23:00 hours on any day provided that:

- It is performed in front of an audience of no more than 500 people; and
- A person concerned in the organisation or management of the music entertainment has obtained the prior written consent¹⁵ of the local authority, health care provider or school proprietor (as appropriate) for that entertainment to take place. It is for these "trusted providers" to determine whether, or not, they wish to make their premises available for music entertainment by a

¹⁵ This requirement is designed to ensure that those responsible for the premises hosting the entertainment have considered and approved the effect of the event on other users of their premises and the wider community.

3rd party and on what terms they deem it appropriate.

4.11 Community premises: music entertainment

No licence is required for a performance of live music or the playing of recorded music on community premises between 08:00 and 23:00 hours on any day provided that:

- The community premises are **not** authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises.
- The music entertainment is in the presence of an audience of no more than 500 people; and
- A person concerned in the organisation or management of the music entertainment has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

4.12 Community premises: exhibition of film

No licence is required for an exhibition of a film on community premises between 08:00 and 23:00 hours on any day provided that:

- The film entertainment is not provided with a view to profit; and
- The film entertainment is in the presence of an audience of no more than 500 people.

4.13 Travelling circuses

Where types of entertainment are present in a performance by a travelling circus¹⁶ they will not be licensable provided that certain qualifying conditions are met. The qualifying conditions are that:

- The entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- The entertainment takes place between 08:00 and 23:00 hours on the same day;
- The entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- The travelling circus has not been located on the same site for more than 28 consecutive days.

¹⁶ "Travelling circus" is defined in the 2014 Order as meaning a circus which travels from site to site for the purpose of giving performances. Musical entertainment at a travelling fairground is likely to be incidental to the main attractions and rides that are not themselves regulated entertainment.

APPENDIX D

LIST OF MANDATORY CONDITIONS

SUPPLY OF ALCOHOL - DPS REQUIREMENT

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

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

SUPPLY OF ALCOHOL - AUTHORISATION BY PERSONAL LICENCE HOLDER

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

IRRESPONSIBLE DRINKS PROMOTIONS

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

FREE POTABLE WATER

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

AGE VERIFICATION POLICY - ON AND OFF SALES

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

AVAILABILITY OF SMALLER MEASURES

The responsible person must ensure that:

- (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - (i) beer or cider: 1/2 pint;
 - (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

ALCOHOL MINIMUM PERMITTED PRICE

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

where -

(i) P is the permitted price,

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

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

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

CLUB ALCOHOL SUPPLY - OFF SALES

Where the club premises certificate authorises the supply of alcohol for consumption off the premises, the supply must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

Any alcohol supplied for consumption off the premises must be in a sealed container.

Any supply of alcohol for consumption off the premises must be made to a member of the club in person.

SIA LICENSING REQUIREMENT

Where any condition of this licence requires that, at specified times, one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

For the purposes of this condition "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act).

This condition is subject to any exemptions in accordance with the provisions of the Private Security Industry Act 2001.

FILM EXHIBITION - CHILD ADMITTANCE

In accordance with section 20 of the Licensing Act 2003, no child shall be admitted to any film exhibition unless that exhibition has been granted a certificate by the British Board of Film Classification or the licensing authority itself.

FILM EXHIBITION - AGE RESTRICTIONS

Where a programme includes a film in the 12A, 15 or 18 category, no person appearing to be under the age of 12 (and unaccompanied by a person over the age of 18 years in that case), 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms:

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME.

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on duty provided that the prior written consent of the person's parents or legal guardian has first been obtained.

FILM EXHIBITION - DISPLAY OF CERTIFICATE

Immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium, a reproduction of the certificate of the Board indicating the category of the film. For a film passed by the Licensing Authority, notices shall be displayed both inside and outside the premises so that persons entering can readily read them and be aware of the category attached to any film or trailer.

FILM EXHIBITION - LICENSING AUTHORITY CERTIFICATION

If the Licensing Authority does not agree with the category in which any film passed by the British Board of Film Classification is placed, they shall be at liberty to alter such category, and, on notice of such alteration being given by the Licensing Authority to the licence holder, the film thereafter shall be treated as having been placed in the altered category and the conditions applicable to the exhibition of films in such altered category shall be complied with.

If the Licensing Authority requests the licence holder to exhibit to them any film, he shall do so at such reasonable time as the licensing authority may, in writing, direct.

Licensing Service
Civic Offices
Guildhall Square, Portsmouth
PO1 2AL

Telephone: 023 9283 4607
Email: licensing@portsmouthcc.gov.uk

www.portsmouth.gov.uk

You can get this
Portsmouth City
Council information
in large print, Braille,
audio or in another
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