

CONSULTATION RESPONSES TO DRAFT STATEMENT OF LICENSING POLICY – APPENDIX B

No:	Policy Ref No:	Name:	Comments:
1	All & paras 1.4, 5.4	Hampshire Ex-Services Club, 230 Fratton Road, Portsmouth	<p>Praise for the way in which the document has been put together and they hope through consultation with licensees, a smooth changeover will be the order of the day.</p> <p>1.4 May need more definitions for registered clubs as there are numerous types in the Portsmouth area.</p> <p>5.4 Sound principal</p> <p>Officer Advice 1(a): Numerous responses received from registered clubs and therefore would suggest recognition of their presence in the City.</p> <p>Recommendation 1: Amend wording of paragraph 1.4 as follows:</p> <p>Portsmouth offers a vibrant mix of entertainment facilities for residents and visitors alike. Ranging from theatres, restaurants, cinemas and concert venues to registered clubs, bars, nightclubs and pubs in various locations around the city. The provision of such facilities contributes much to the growth of the local economy for Portsmouth and offers an important role for employment within the city.</p>
2	Fundamental principles, public safety, integration of strategies	Councillor Tom Blair, Simon Lindsey and Susie Waller on behalf of the Health and Social Wellbeing Partnership	<p>In the light of the Public Health White Paper recommendations concerning smoking, they think that the statement of licensing policy should reflect these recommendations. Also the Integrated Health Development Strategy for Portsmouth is not mentioned, they feel that this too is an oversight.</p> <p>One of the targets in both the Community Strategy and the Integrated Health Development Strategy is to reduce the number of smokers in the city by providing a comprehensive smoking cessation service and by increasing the number of smoking-free areas in the city.</p> <p>The Health and Social Care Partnership Board have asked if the new Licensing Laws allow the</p>

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		Board	<p>council to ensure licensed premises contribute to towards achieving the target.</p> <p>Having read the proposed Statement of Policy they think that smoke-free areas could be promoted in the following sections:</p> <p>FUNDAMENTAL PRINCIPLES</p> <p>An additional factor could be provision of smoke-free areas E.g.</p> <ul style="list-style-type: none"> • For the whole premises • At the bar area • In eating areas <p>PUBLIC SAFETY</p> <p>The Health and Safety Commission has issued a draft Approved Code of Practice to clarify the implementation of the Health and Safety at Work Act as it applies to passive smoking at the work place. The British Medical Association estimate the at least 1,000 people die as a result of passive smoking annually.</p> <p>Measures should be in place to protect people working in licensed premises and the Council will expect applicants to outline these and demonstrate how they will be implemented.</p> <p>INTEGRATION OF STRATEGIES</p> <p>Should include a reference to the health strategy, outlining the aim to increase the number of smoke-free areas. Ideally there could be guidelines indicating the acceptable air quality levels with an onus on Licensees to achieve this standard.</p> <p>Officer Advice 2(a): The advice from DCMS is quite specific as regards this particular matter. Guidance on their website states:</p> <p>“Public health is not a licensing objective for the purposes of the Act. Smoking is an issue that must be taken seriously and the Government is considering whether sufficient controls are currently</p>
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			<p>in place to protect both customers and employees. But anti-smoking measures are matters to be considered in the wider context and fall outside the scope of regulating the licensable activities of the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. However there is nothing in the Act that prevents non-smoking areas being provided for in an operating schedule if an applicant wants to have them. “</p> <p>For similar reasons as outlined above, reference to the Integrated Health Development Strategy for Portsmouth within the statement of licensing policy would be inappropriate as such matters fall outside the scope of the licensing objectives.</p> <p>Recommendation 2: No amendment to be made to policy.</p>
3	All & para 10.8 and cumulative effect	Mr J Wallsgrove, Head of Licensing, Yates Group.	<p>Has little comment to make as unlike many he has read, it follows the terms of the Act and guidance without adding onerous considerations.</p> <p>The only points he raises are firstly in relation to paragraph 10.8 where planning will be a pre-requisite to a licensing application. In the Magistrates Court this was a common feature of many policies until the advent of the good practice guide which removed it. The functions are entirely separate as stated in our own policy.</p> <p>Planning application are more arduous, time consuming and costly. That could all be to no avail if a premises licence/variation were not granted. There must be some merit in allowing operators to submit licensing applications, to test the water as it were. If they are unsuccessful it would avoid the need for the planning application. He is sure that the planning committee would acknowledge that if a licence were granted that would not in any way add weight behind a planning application. In addition if you had to wait for planning you could be waiting a further few months for the premises licence to be granted, again putting operators to considerable cost by loss of trade.</p> <p>The new licensing system is designed to be more flexible and less burdensome by red tape. He would strongly submit this requirement be removed from the policy.</p> <p>Officer Advice 3(a): The statutory guidance issued by the Secretary of State in accordance with Section 182 of the Act clearly states that applications for premises licences for permanent</p>

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			<p>commercial premises should normally be from businesses with planning consent for the property concerned.</p> <p>Recommendation 3: No amendment to be made to the policy.</p> <p>The second and final issue is in relation to the special saturation policy. There is no time within which the police or others are required to make representations on whether a special policy should be adopted. It is likely there will be a considerable number of variations to licences on conversion, which will be deemed major, as they will seek to extend opening hours. It will be extremely unhelpful if consideration of a special policy is given at the time when operators will be making their applications (i.e. from the 7th February). The policy is going to be published by 7.1.05. The Police should be required to make any necessary representations in good time that there can be consultation before the 7.1 and if a policy adopted published in the final version of the policy.</p> <p>He appreciates that the Act does not impose a specific time or circumstances for representations to be made or consideration given but if we are to be up against it in seeking variations in Guildhall Walk and Gunwharf Quays we need to know early enough to ensure we can prepare operating schedules appropriately.</p> <p>Otherwise, a very good policy which maintains the principle of every application on its merits.</p> <p>Officer Advice 3(b): Should the Chief Officer of Police submit representations and evidence for the consideration by the Council that a special policy relating to cumulative effect should be imposed in identified areas; such evidence will be subject to consultation with those identified in the prescribed consultation process.</p> <p>Recommendation 4: Licensing Committee to note representation made.</p>
4	All & paras 8.19, 8.16, 8.19 and cumulative impact	Enterprise Inns plc	<p>Concise, clear and well drafted policy and the following comments are suggested improvements to clarify what is already a good document</p> <p>As the licensing authority is required to act impartially between the applicant and objectors, particularly in the hearing process, and given the role of other officers in the council as responsible</p>

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		<p>authorities as regards making representations concerning applications, it would be clearer if we used the expression “licensing authority” instead of “council” throughout the document, except where reference is made to the council’s role as a relevant authority.</p> <p>Officer Advice 4(a): There can be some ambiguity and confusion when the same term is used for the role of the council as the licensing authority and relevant authority.</p> <p>Recommendation 5: The term “Council” is replaced by the term “Licensing Authority” where relevant.</p> <p>It would be helpful if we could express the limits of our discretion to impose conditions as set out in the Act. This is not clear in paragraphs 8.9 and 8.16</p> <p>Officer Advice 4(b): The Act sets out the circumstances where conditions can be applied to licences which relate to the conversion of licences within the transition period, mandatory conditions that must be applied in accordance with the Act, any measures volunteered by an applicant by way of the operating schedule or following receipt of relevant representations. The Council may not impose conditions of its own volition outside the above criteria. It may be helpful to applicants to qualify the circumstances in the policy when conditions may be applied.</p> <p>Recommendation 6: Reference to imposition of conditions is further qualified in those particular paragraphs by the following statement “If not volunteered by the applicant in their operating schedule and following relevant representations”.</p> <p>Where a special policy relating to cumulative impact is proposed, the Act and the Guidance require that there should be an evidential basis for the policy, justified by the relevant authorities. Until that evidential basis is available for licence holders in the area to challenge, there should be no special policy implemented.</p> <p>Officer Advice 4(c): See comments in 3 previously</p> <p>Matters controlled by conditions must be in the control of the licensee. Para 8.16, fifth bullet point puts the control of smells out of the control of the licensee because it would depend on the wind direction. Also the third bullet point of 8.16 is covered by other regulations and should not be</p>
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		<p>duplicated by the policy</p> <p>Officer Advice 4(d): The statutory guidance issued under the Act identifies that in certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the imposition of conditions.</p> <p>Recommendation 7: No amendments necessary to policy document.</p> <p>The last bullet point of 8.19 replicates government guidance but does not appear to comply with the Act which states that children under 16 are permitted in bars so long as they are accompanied by an adult and implies that the supervision of that adult is sufficient to protect children from harm in those circumstances. Any special factors relating to the operation of the business in the bar, such as nudity etc, would be relevant matters which would require conditions limiting access by children. For the same reason the penultimate bullet point at 8.20 is already in the Act and therefore does not need to be replicated as a possible condition.</p> <p>Officer Advice 4(e): The Guidance has suggested that imposition of conditions, following representations, may be appropriate dependent upon individual circumstances. Whilst the Act does permit children under 16 to be in bars so long as they are accompanied by an adult, there may be circumstances where, in respect of certain premises, it would conflict with the promotion of the licensing objective in relation to the protection of children from harm and that it would be appropriate to impose restrictions.</p> <p>Recommendation 8: No amendment to be made to the policy.</p> <p>Request for a list of the addresses of responsible authorities to be attached to the policy in order that applicants can ensure that proper service of documents is ensured.</p> <p>Officer Advice 4(f): It was intended that such contact details would be provided within the application guidelines but there would no reason not to also include such information as an appendix to the licensing policy.</p> <p>Recommendation 9: That a list of contact details for the responsible authorities will be appended to the Statement of Licensing Policy together with an explanation that it is a non-</p>
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			exhaustive list and that it remains the responsibility of the applicant to ensure that they seek all relevant advice and guidance.
5		RSPCA	<p>Comment that circuses will fall under the definition of regulated entertainment and therefore will require a premises licence or consent under a Temporary Event Notice.</p> <p>The RSPCA has campaigned for many years against the use of animals in circuses and they are actively encouraging councils to refuse permission for circuses to use their land.</p> <p>Officer Advice 5(a): Circuses will be required to be licensed as stated. However, the question of the Council permitting the use of their land for such purposes is not a matter for inclusion in the policy.</p> <p>Recommendation 10: No amendment to be made to the policy.</p>
6	All & paras 8.9, 8.16 and 8.20	Poppleston Allen Licensing Solicitors on behalf of Portsmouth University Students Union	<p>In general terms the policy appears to have been drafted to a very high standard and in keeping with the spirit of the legislation.</p> <p>The only area of concern and it is accepted that it may be simply due to an omission rather than any misunderstanding of the principles of the new regime, is that in certain parts it refers to the potential imposition of conditions upon licences, without making it clear that this will only happen where the matter has been raised in the operating schedule or there has been a relevant representation raising the issue. The specific paragraphs concerned are 8.9, 8.16 and 8.20. This is simply an issue of clarity as at paragraph 5.6 it is quite clearly stated that as a council, we understand that we can only impose conditions, regardless of circumstances, if a representation is made. Suggest that it might be prudent to make this point clearly in respect of each of the paragraphs where suggested conditions are listed.</p> <p>Officer Advice 6(a): This point has already been addressed in 4 above.</p>
7.	All & paras 8.8 – 8.11,	The Cinema Exhibitors'	The Cinema Exhibitors' Association is the trade association for cinemas in the UK, representing the interests of approximately 90% of cinemas (which includes multi-national companies, national plcs,

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	<p>8.15 – 8.16, 10.1, 10.16 – 17, 10.18-19</p>	<p>Association</p>	<p>smaller circuits, independently owned cinemas, council cinemas and regional film theatres).</p> <p>Comment that they find the policy slightly over-prescriptive in parts, although amongst the most concise they have seen. Have made comments outlined below to illustrate their main concerns for cinema operators as the document, like most they have received, seems to be geared towards pubs and clubs.</p> <p>8.8 – 8.11 Prevention of crime and disorder They feel these are over-prescriptive for cinemas. On a general note, cinemas are EXEMPT from door supervisor regulations.</p> <p>8.15 – 8.16 Prevention of public nuisance Again, over prescriptive for cinemas</p> <p>10.1 Crime prevention and reduction Whilst licensing authorities are free to add conditions, they feel crime and misuse of drugs will not be a problem with cinemas.</p> <p>10.16 -17 Safer clubbing guide Over prescriptive for cinemas.</p> <p>10.18-19 Portman Group Code Over prescriptive for cinemas</p> <p>In summary the CEA’s main concern is that all premises are treated on an individual basis, new licensing policy documents are not over-prescriptive and licensing authorities do not seek to attach blanket/excessive conditions on all premises. There is very little historical connection between cinemas and public nuisance and crime and disorder. Finally, although a pedantic point, should reference in the document be made to the licensing authority as opposed to the council.</p> <p>Officer Advice 7(a): The policy document sets out a general approach to the determination of licensing applications and when carrying out its functions under the Act, the licensing authority will promote and have regard to the licensing objectives. Equally important is that any application will be considered on its individual merits.</p>
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			<p>Applications will be considered dependent upon the nature of the premises to be licensed, the licensable activities intended to be provided and what measures an applicant may incorporate into their operating schedule to promote the licensing objectives and if representations are received. Certain types of premises and licensable activities may present less risk than others and will therefore be reflected in the nature of issues they need to address in terms of promoting the licensing objectives.</p> <p>Any conditions imposed as a result of measures contained in an operating schedule or as a result of representations received will be proportionate and tailored to the size, style, characteristics and activities taking place at the premises concerned.</p> <p>Therefore, references provided by CEA in relation to the Safer Clubbing guide and the Portman Group code would most likely be irrelevant when considering an application for cinema type premises.</p> <p>Recommendation 11: No amendment to be made to the policy.</p>
8	Para 10.3	Jazz Services Ltd	<p>Only comment is to welcome the licensing authority’s positive statements in paragraph 10.3 with regards to cultural strategies and in particular, live music and dance.</p> <p>Recommendation 12: Licensing Committee to note comment.</p>
9		Live Music Forum	<p>Wish to draw the licensing authority’s attention to the importance of live music, both for the vibrancy of our culture and its contribution to local economies. Licensing reform presents a unique opportunity for the authority to take a positive stance in relation to the performance of live music and the Forum hopes that we will reflect this opportunity when drafting its policy statement.</p> <p>Officer Advice 9(a): The draft policy document adequately reflects the aims of the Live Music forum by reference in paragraphs 8.4 and 10.3</p>

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			Recommendation 13: No amendments necessary to the policy.
10		MOD Police	No negative comments to make concerning the draft policy. Recommendation 14: Licensing Committee to note comment.
11		CIU Working Men's Club and Institute Union Limited	They acknowledge receipt of the draft licensing policy statement and that they represent over 2,600 working men's and other social and recreation clubs in membership of the organisation. Draft policy statements are arriving at their office in too great a number for them all to be examined line by line. They are endeavouring to scan them sufficiently to identify any aspects they perceive to require a response on behalf of their member club, in which case they will reply direct to the relevant licensing authority. They suggest that the consultation exercise should as far as practicable, take in secretaries and officers of members' clubs within our area to ensure a local club sector input. Officer Advice 11(a): All registered clubs within the Portsmouth area were individually forwarded an explanatory letter and a copy of the draft statement of licensing policy.
12	Para 8.6	The European Entertainment Corporation	They are pleased to note in paragraph 8.6 that where appropriate, the Council may consider establishing a policy of seeking premises licences for public spaces from the licensing authority. They are currently preparing a document for submission to the Department of Culture, Media and Sport following their recent meeting with the Licensing Communication Strategy team. They appear to be the only circus operator supporting this legislation which they believe will benefit their hosts, visiting public and themselves. Recommendation 15: Licensing Committee to note comment.
13		Musicians' Union	Pleased to note the commitment to live music within the draft statement of licensing policy

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			Recommendation 16: Licensing Committee to note comment.
14		Highbury Community Association	Draft policy document was very helpful and they will have regard to what is mentioned. Recommendation 17: Licensing Committee to note comment.
15		Club Secretary, Portsmouth Labour Party Club Ltd	Acknowledges receipt of draft statement of licensing policy. Requests further information as regards the application process to be followed as there does not appear to be any mention of the practical steps necessary to comply with the new licensing regime in the policy document. Officer Advice 15(a): Guidance notes on the implications of the Act have been sent to the secretary together with an invitation for the Licensing Manager to meet with him and any other club representatives to give an overview of the changes and answer any questions. Further guidance notes as to the practical measures relating to making application for the various licences and permissions will also be prepared and distributed with the application forms next year.
16		Hampshire Fire and Rescue Service	Hampshire Fire and Rescue Service (HFRS) have attended meetings with the Hampshire and Isle of Wight Licensing Officers Group and have undertaken discussions concerning the Act. HFRS, as a responsible authority, has agreed a policy on how the Service will carry out its function and has produced a protocol in this respect. This policy and protocol details the procedures, information and documents that HFRS can expect to receive from the applicant in support of an application and details the action HFRS will take within an appropriate number of working days following receipt of such documents. Officer Advice 16(a): The guidance notes to be prepared for applicants in relation to what information must be provided on the operating schedule will accord with the information and documents that HFRS have indicated they need sight of in order to properly assess each application.

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17	All & para 8.23	Portsmouth City Council, Social Services Department	<p>No specific changes are required to the draft statement of licensing policy. The big issue, however, is how the consultation process with the designated body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised by the licensing authority for that area as being competent to advise it on such matters, will be structured. This means either the Portsmouth Child Protection Committee or the Portsmouth City Council Social Services Department.</p> <p>Officer Advice 17(a): The statutory guidance expects that the body recognised by the licensing authority to be competent to advise will be indicated in the statement of licensing policy. This is important as applications for premises licences have to be copied to the responsible authorities by the applicant in order for them to make any representations they think are relevant.</p> <p>The address for the appropriate body will be provided in the guidance notes to be formulated and distributed with the necessary application forms.</p> <p>Recommendation 18: That paragraph 8.23 of the current draft statement of licensing policy be amended as follows:</p> <p>“The licensing authority will have regard to any representations made by the Portsmouth Child Protection Committee or through the Portsmouth Social Services Department, acting on its behalf, or any other appropriate body, when considering applications for premises licences”.</p>
18	2.0, 2.3, 3.0, 4.0, 4.5, 5.1, 5.2, 5.3, 5.5, 6.1, 6.2, 6.3, 6.4-6.8, 7.0, 8.5, 9.4, 10.0,	Robert Adderley FRAeS MBAC, Chair, West Southsea Neighbourhood Forum.	<p>Advises that as the consultation period does not permit full consideration by the Committee of West Southsea Neighbourhood Forum, he is responding in his own right as a citizen and council tax payer of this City. However his views are likely to be endorsed by the Committee and indeed by the Forum when he reports back to them as Chair.</p> <p>For ease of reference he refers to the numbered paragraphs of the draft policy to append his brief comments on the subject and then adds his concluding comments.</p> <p>2.0 Throughout this document there is the emphasis on regulating individual premises. He has</p>

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<p>10.2, 10.3, 10.4, 10.7, 10.10, 10.11, 10.14, 10.15, 10.16-17, 10.21, 12.1, 13.2, 14.0</p>		<p>been dismayed to learn that until now, no map has been maintained to indicate the relative capacity and status and precise location of individual premises to assist the assessment of the impact on each neighbourhood.</p> <p>Officer Advice 18(a): With the licensing regimes consolidated under one licensing authority, it will be possible to implement such mapping through the information required to be kept by the licensing authority.</p> <p>2.3 Does this include mobile units such as Hot-Dog vans with their propensity to generate noise and litter?</p> <p>Officer Advice 18(b): Mobile traders similar to this description who sell hot food or hot drink between the hours of 11 pm and 5 am will be providing late night refreshment and will be required to be licensed under this Act.</p> <p>3.0 Noble objectives if faithfully implemented. Until now PCC with limited resources and at extra cost to the council tax payer, has failed to meet these objectives.</p> <p>Officer Advice 18(c): The licensing objectives are prescribed under the Act and the licensing authority has a statutory duty to promote and have regard to these objectives when carrying out its functions under the Act.</p> <p>4.0 The draft policy clearly implies additional cost to the council tax payer. PCC has a duty to consult with everyone who will have to pay more.</p> <p>Officer Advice 18(d): Fees will be set centrally by the Government who have indicated that the levels set will reflect the total cost of administering and enforcing the new licensing regime without additional burden to the council tax payer. The Government have agreed to review these fee levels at a date in the near future to ensure that this objective has been achieved.</p> <p>The licensing authority is only required to consult with those bodies/persons set down in the Act.</p> <p>4.5 He states his views about the Act in a later paragraph (5.2 and concluding remarks).</p> <p>5.1 He supports the right for any individual to apply under the terms of the Act. For justice to be</p>
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			<p>seen to be done, all individuals affected by the terms of the Act should be notified by PCC that they have the right to make representations.</p> <p>Officer Advice 18(e): Regulations governing the advertising of applications for the grant, variation or review of premises licences will be contained in secondary legislation made by the Secretary of State.</p> <p>5.2 It is true, but disgraceful that the provisions of the Act do not provide a mechanism for the general control of anti-social behaviour by individuals once they are away from the vicinity of the premises. He has protested vehemently to his MP and to the Chief Executive. It remains disgraceful if the City Council hides behind this Act to shelve responsibility for the mayhem and disorder that is generated in these premises and is ejected from them onto our streets. The costs of the so-called overall city management for the evening and night time economy should be borne by those who spawn the need for it. Will PCC please quantify these costs?</p> <p>5.3 Longer licensing hours will inevitably lead to yet more overtime for depleted police resources. Will PCC identify these mythical sources of late night transport and respond to the statement, made at the Evening Economy Event that a large proportion of licensed taxis choose not to operate after 2300 hours. Noise levels are likely to continue until dawn.</p> <p>5.5 Cumulative impact – see his comment at 2.0. PCC needs to recognise the various trails of drunken progress throughout the City, mainly from South to North, partly attributable to the failure to provide late night buses (which should be sponsored by major clubs).</p> <p>6.1 Good, see his para 2.0</p> <p>6.2 Good</p> <p>6.3 May he suggest that whenever an individual is arrested or even stopped for inebriated or anti-social behaviour, a note of which licensed premises he has used is taken and a tally maintained by PCC to record which establishments generates the most trouble.</p> <p>6.4 – 6.8 A lot of words. What is the bottom line?</p> <p>7.0 Brilliant – in theory. A lot of good words, merely illustrating the fragmented approach</p>
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			<p>perpetrated by the City. These mechanisms certainly exist but who is responsible for their control and co-ordination whilst everything is happening.</p> <p>He suggests an additional sub-para (may need legal wording):</p> <p>Power to close down, at short notice for up to 7 days any licensed premises or temporary event on grounds that there have been repeated occurrence of customers leaving the said premises and causing a nuisance in the form of disorder or noise on the neighbouring streets.</p> <p>Officer Advice 18(f): Reference is made in paragraph 10.21 to the Anti-Social Behaviour Act 2003 which will provide that if noise from any licensed premises is causing a public nuisance, an authorised environmental health officer will have the power to issue a closure order in respect of it, effective for up to 24 hours. These powers are in addition to the powers available to the police under the Act to close licensed premises for temporary periods.</p> <p>No powers exist to impose conditions on temporary events.</p> <p>8.5 Whilst encouraging rather than seeking to deter live and canned music, PCC should ensure that an environmental health officer is present at all major events to minimise the impact on neighbouring residents and to ensure that legal noise restrictions are not blatantly infringed. Events using fireworks should require special permission and be held only on traditional occasions and to mark local or national celebrations.</p> <p>Officer Advice 18(g): The licensing policy cannot duplicate other regulatory regimes and conditions should only be attached that are necessary for the promotion of the licensing objectives and if already provided for in other legislation (ie the Environmental Protection Act 1990) they cannot be considered necessary in the context of licensing law.</p> <p>9.4 Why “give consideration” to holding meetings? Why not acknowledge a commitment to hold meetings with the local community eg Neighbourhood Forums.</p> <p>Officer Advice 18(h): In this context consideration to holding meetings relates to the organisation of separate forums to specifically discuss licensing matters. Officers would welcome the opportunity to address any licensing issues with existing neighbourhood forums.</p>
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		<p>Recommendation 19: That paragraph 9.4 of the current draft statement of licensing policy be amended as follows:</p> <p>“The Licensing Authority will hold regular open meetings with the local community at which the community can express how well it feels the licensing objectives are being met”.</p> <p>10.0 What exactly is meant by “The licensing authority shall secure the proper integration” Who is responsible for doing this and is subsequently held to be accountable if it is not done?</p> <p>10.2 Does PCC claim that it currently fulfils its obligations under section 17 of the Crime and Disorder Act. What additional measures need to be incorporated in the new policy?</p> <p>10.3 Policy should not be reviewed unilaterally; consultation with other parties may be necessary.</p> <p>Officer Advice 18(i): Any review of the statement of licensing policy will be in accordance with the procedure laid down in section 4 of the policy statement.</p> <p>10.4 A great deal of hypocrisy is buried in the text of this paragraph. The lack of adequate late-night transport is probably the major factor that prolongs and distends the spread of disorder and anti-social behaviour that has been spawned in the licensed premises. Being cognisant of this, if the licensing authority licences these premises, it has a positive duty and responsibility to organise the resources to peacefully disperse the inebriated masses that abuse our streets.</p> <p>10.7 If these regimes are properly separated how does this avoid duplication and inefficiency and yet be compatible with the liaison referred to in 10.9?</p> <p>10.10 Does this mean that the Council is prepared to consider reducing the number of premises and or opening hours?</p> <p>10.11 I should hope so.</p> <p>10.14 Good, Add: and to immediately notify the police so that these individuals do not continue to</p>
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			<p>abuse the public streets (its called co-operation or integration of responsibility).</p> <p>10.15 Same footnote as 10.14 should apply to pubwatch in respect of ejected customers.</p> <p>10.16-17 Clubs that permit under-age drinking or serve alcohol to inebriated customers should be heavily penalised.</p> <p>10.21 This should be extended so that the police could close licensed premises for a defined period if the customers of the licensed premises regularly generate street disturbance in their immediate vicinity.</p> <p>12.1 Need to define “the vicinity” In a defined entertainment area, it may be appropriate to define additional regulations restrictions or police powers collectively in respect of all the licensed premises within that area.</p> <p>The jurisdiction and responsibilities of licensed door staff needs to be defined in each licensed premises and possibly for closely grouped premises.</p> <p>Officer Advice 18(j): 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.</p> <p>13.2 Such risk assessments by the licensing authority should be taken into account when issuing the first licence.</p> <p>14.0 The Act requires that the functions of the licensing authority are to be undertaken by its Licensing Committee.</p> <p>This being the first time that the authority has received its powers, it is a dereliction of responsibility to delegate to the extent proposed. Let the Committee faithfully represent their electors and do their duty by closely reviewing the recommendations of the officers and not merely maintaining a high and mighty overview of their reports.</p>
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			<p>(He hopes that the officers do not class this as an irrelevant, frivolous or vexatious comment)</p> <p>Concluding Comments</p> <p>Sadly this proposed legislation underlines the impotence of the City Council. He considers the Licensing Act 2003 to be a disgraceful product of arrogance by the Secretary of State of (so-called) Culture Media and Sport. It is in total defiance of the ethos being broadcast by the Home Secretary and others in the Government and Hampshire Constabulary who strong advocate that those who cause mayhem should pay for it. He is making representations via his MP to this effect.</p> <p>Separately he has addressed the Chief Executive of PCC with the plea, as voiced by him at the Evening Economy Event, that the collateral costs should be borne by the industry and not loaded on to the Council Tax and Police Levy.</p> <p>There is abundance of unchallenged evidence that excessive consumption of alcohol is the root cause of the disturbances and mayhem created in our city streets and in our hospitals. This alcohol is provided by elements of the entertainment industry, many of whom are blatantly profiteering and taking advantage of young (hopefully not under-aged) drinkers to the serious detriment of their health. Indeed, from the platform of the Evening Economy Event, a representative of the industry boasted that they re-sold a bottle of alcohol for five times the price that it could be purchased in a supermarket.</p> <p>In conclusion, we should all applaud and support any development that contributes to the well-being and happiness of our citizens and the prosperity of our City. Nobody should object to anyone going out to enjoy themselves. But for the greater majority, who spend more time under the shelter of their own roofs and close not to go out on the tiles, then they should not be burdened with increasing forms of local and national taxation to pay for protection from the disturbances caused by drunken revellers and/or the medical treatment of intoxicated casualties. As he has already said, such costs should be levied upon the entertainment establishments that already make vast profits from promoting such drunkenness.</p>
19	All & paras 5.5,	British Beer and Pub Association	The British Beer and Pub Association (BBPA) represent brewing companies and their public house interests as well as pub operating companies within the UK. In total their members account for

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	<p>section 8</p>	<p>98% of the country’s beer production and operate around two thirds of the 60,000 public houses in the country. Many of their members own or operate public houses within the Portsmouth City Council area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies, which includes security in design, drugs, drinks promotions, noise control and health and safety.</p> <p>The BBPA is grateful for the opportunity to comment on our draft licensing policy. In general the tone of the policy is well balanced. However the BBPA does have some concerns which it would like to bring to our attention.</p> <p>The policy makes a number of references to the licensing authority’s intention to impose conditions without any qualification of the limited circumstances when conditions can be imposed. The impression given is that the licensing authority has a general discretion to impose conditions when of course this is not correct. In particular, they highlight paragraph 5.5 and section 8 which deals with The Licensing Process and Applications.</p> <p>They recommend the policy makes it clear that on an unopposed application, the licensing authority has discretion only to impose such conditions as are consistent with the operating schedule. Where there are relevant representations, the authority may impose such conditions as it considers necessary for the promotion of the licensing objectives.</p> <p>Officer Advice 19(a): This point has already been addressed in 4 above.</p> <p>The policy states that the licensing authority recognises the need to avoid so far as possible duplication with other regulating agencies and yet the policy does contain examples of such duplication.</p> <p>They highlight paragraphs 8.12 -8.13 under Public Safety and paragraphs 8.15 – 8.16 regarding Public Nuisance.</p> <p>The majority of the matters mentioned are regulated both by current legislation and under the operator’s general duty of care to both its customers and staff. They refer to the statutory guidance which states “the only conditions which should be imposed on a premises licence or club premises</p>
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			<p>certificate are those which are necessary and proportionate for the promotion of the licensing objectives. Accordingly, if other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises holder or club”. The licensing authority should therefore not use the Act as enforcement for other legislation.</p> <p>The licensing authority must also take care to avoid being overly prescriptive in terms of the content of operating schedules. Guidance for applicants is obviously helpful but it should be remembered that applicants will know their businesses best and it is therefore for them to demonstrate how they will promote the licensing objectives.</p> <p>Officer Advice 19(b): The statutory guidance issued under the Act identifies that in certain premises where existing legislation does not provide adequately for the promotion of the licensing objectives, consideration might be given to the imposition of conditions. The statutory guidance offers the following advice:</p> <p>Section 5.46 “The operating schedule will form part of the completed application form for a premises licence. It should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory”.</p> <p>Section 5.50 “In respect of some premises, it is entirely possible that no measures will be needed to promote one or more of the licensing objectives because they are adequately dealt with by other existing legislation. However, it is important that all operating schedules submitted by applicants are precise and clear about the measures that are proposed to promote each of the licensing objectives. “</p> <p>Recommendation 20: No amendments necessary to the policy.</p> <p>They recommend that the term “licensing authority” is used instead of “Council” throughout the policy.</p> <p>Officer Advice 19(c): This point has already been addressed in 4 above.</p>
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			<p>They hope that the licensing authority will take their observations in a constructive manner and that they will be taken into account when formulating the final policy. The BBPA remains committed to ensuring the smooth operation of the new licensing regime and looks forward to working with the authority to achieve that objective.</p>
20	<p>All, paras 5.5, 8.0, 8.2, 8.3, 8.9, 8.11, 8.13, 8.16, 8.20 and 14.2</p>	<p>Berwin Leighton Paisner Solicitors on behalf of JD Wetherspoon plc</p>	<p>Overall, they have been impressed by our concise informative policy which does not seek to be overly prescriptive. In a number of areas, the policy clearly follows the spirit of the Act. There are therefore only a few comments and suggestions they would like to make.</p> <p>They ask that it is made clear in the policy that in the absence of relevant representations, applications must be granted subject only to any applicable mandatory conditions and such conditions which are consistent with the applicant’s operating schedule. It would be helpful if the policy included the following quote from the statutory guidance.</p> <p>“..... Where the responsible authorities and interested parties do not raise any representations about the application made to the licensing authority, it is the duty of the authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the Act itself.</p> <p>The licensing authority may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. This would allow for proper liaison before representations prove necessary”.</p> <p>Officer Advice 20(a): The Act is implicit in that in the absence of relevant representations, the licensing authority must grant the licence subject only to conditions that are consistent with the operating schedule and any mandatory conditions set down in the Act. However, it may be useful for the policy to reiterate this provision for the benefit of applicants, responsible authorities and interested parties alike.</p>

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			<p>Recommendation 21: Insertion of two additional paragraphs under SECTION 12 - CONDITIONS as follows:</p> <p>12.0 Where the responsible authorities and interested parties do not raise any representations about the application made to the licensing authority, it is the duty of the authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the Act itself.</p> <p>12.1 The licensing authority will not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It will then only impose conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it is strongly recommended that applicants consult with responsible authorities when preparing their schedules. This would allow for proper liaison before representations prove necessary.</p> <p>12.4 DELETE THIS PARAGRAPH AS REFERENCE IS ALREADY MADE IN 12.1 ABOVE.</p> <p>A request is also made to include within the policy reference to the conversion process, particularly making it clear that variations at the time of conversion (and this is a point that should also be made in relation to applications to vary premises licences after the second appointed date) do not require the same level of information as is necessary for a brand new application. The reason for this is that the government assumes that existing premises are operating correctly. Therefore the operating schedule in relation to the variation need only address additional steps required in relation to the variation, ie if a pub simply wishes to trade for an additional hour at weekends then, depending on the premises and the circumstances; it is unlikely any further steps will be required. However, should the variation, for instance, seek permission to allow music and dancing, certain additional measures may be required. They are of the opinion that the current policy document does not make this clear and may mislead applicants into providing more information than is necessary, which in turn may result in unwarranted conditions being attached to licences, as well as additional time and expense in producing a more detailed operating schedule.</p>
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		<p>Officer Advice 20(b): The provision of this advice is not a matter that needs to be contained within the policy. It is a matter of guidance to applicants when completing their application and suitable explanations can, and will, be contained within the guidance notes to accompany application forms.</p> <p>Recommendation 22: No amendments to be made to policy.</p> <p>In some locations within the policy (5.5, 8.9, 8.11, 8.16 and 8.20), the impression is given that the licensing authority itself can impose conditions of its own volition. Request that amendments are made in order to make it clear that the authority can only amend or refuse an application if relevant representations are received. Any restrictions can only be considered provided they are necessary, proportionate and reasonable.</p> <p>Officer Advice 20(c): See comments in 4 previously.</p> <p>They note the recommendation in 8.0 in relation to planning and are pleased that it is only a recommendation. In general terms, they would agree that it would be helpful if planning permission had been resolved before an application is made as it would avoid unnecessary argument at any potential hearing in relation to matters which fall properly within the remit of the Planning Committee rather than the Licensing Committee. However, they can envisage circumstances where it may be commercially expedient to make a licence application before the planning process has been completed. This may be appropriate in cases where a time factor is involved in acquiring a particular set of premises and the applicant needs to have some certainty about the licensing process before they continue with large scale expenditure in the acquisition of premises, only to find that they are subsequently denied a licence. In such circumstances, it is of course always open to the applicant to invite the licensing authority to limit the “life” of a premises licence if, for any reason, planning permission were not forthcoming.</p> <p>Officer Advice 20(d): See comments in 3 previously. It is important to reiterate that reference to planning consent in 8.0 and 10.8 are recommendations and that any application will be considered on its individual merits and there may be circumstances where the licensing authority may consider it appropriate for a licence to be granted without the prior planning consent.</p> <p>In either section 8.2 or 8.3 they ask that mention is made within the policy that the minimum time required for a Temporary Event Notice is 10 working days.</p>
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		<p>Officer Advice 20(e): The Act dictates that the Temporary Event Notice must be given to the licensing authority no later than 10 working days before the day on which the event period begins. It may be helpful for applicants to refer to this minimum statutory time period within 8.2 of the policy document.</p> <p><i>Members should also note that amendments have been made to the preferred period of notice of such temporary events following representations made by the Association of Licensed Multiple Retailers (ALMR) outlined in 21 below.</i></p> <p>Recommendation 23: To amend the wording of section 8.2 of the policy document as follows:</p> <p>Organisers of large events (in particular major festivals and carnivals) or temporary events are strongly advised to contact the Council and responsible authorities at the earliest opportunity to discuss licensing matters and to provide as much advance notice as is reasonably practicable. Whilst the Act dictates that any Temporary Event Notice must be given to the licensing authority no later than 10 working days before the day on which the event period begins, the licensing authority would wish applicants to give at least 20 working days notice of such events.</p> <p>A request is made that 8.13 is amended. As currently worded, they believe it does not give enough guidance to applicants as to what (and just as importantly what is not) expected of them. Instead, could this section be replaced with something upon the lines of the following:</p> <p>“Where an applicant identifies an issue with regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should indicate in their operating schedule the steps which will be undertaken to ensure public safety”.</p> <p>Officer Advice 20(f): It is intended within the proposed application guidelines to indicate matters to applicants that they should consider when formulating their operating schedule as regards promotion of the licensing objectives. An applicant’s knowledge of what matters may be covered by other existing legislation may be narrow and to amend the wording of the current section would perhaps place an onerous and impossible burden on applicants to be fully conversant with a wide</p>
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		<p>range of statutory functions. Similarly, if the guidance is fully outlined within the policy itself, and there are subsequent changes to existing legislation, the licensing authority may have to embark on a full consultation process to amend any changes that reflect on other statutory provisions. Such a pending example is the proposed overhaul of fire safety legislation under the new Regulatory Reform (Fire) Order.</p> <p>Therefore, any specific guidance in terms of matters to be considered for inclusion in the operating schedule is far better placed within application guidelines which can be read in conjunction with the Statement of Licensing Policy.</p> <p>Recommendation 24: No amendment to be made to policy.</p> <p>In the finalised licensing policy, they trust that it will list the addresses of the responsible authorities who are to be served with notices of application.</p> <p>Officer Advice 20(g): This matter has been addressed in 4 previously.</p> <p>Finally, they ask that an amendment be made to the table of delegation of functions as set out in 14.2 of the policy which indicates that applications for personal licences, where the applicant has relevant unspent convictions, will be dealt with by a sub-committee. The Act is clear that without a Police objection, the personal licence must be granted and therefore, in such circumstances, will be dealt with by officers. They appreciate that this table has been taken from the statutory guidance issued by the DCMS but having brought this to the attention of other local authorities, they understand that LACORS are bringing this matter to the attention of the DCMS.</p> <p>Officer Advice 20(h): Section 120 of the Act clearly states that if the Chief Officer of Police does not give notice of objection (or if that notice is withdrawn) in relation to unspent relevant offences, the authority must grant the application.</p> <p>It would therefore be prudent for the Licensing Committee to qualify within the table that hearings for personal licence applications with unspent convictions will be undertaken by the Licensing Sub-Committee following receipt of a notice from the Chief Officer of Police which states that by granting the licence, the crime prevention objective would be undermined.</p> <p>Recommendation 25: To amend section 14.2, delegation of functions in relation to</p>
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			<p>applications for personal licences so as to include the wording “following receipt of an objection notice from the Chief Officer of Police”.</p> <p>Despite their comments, they again congratulate the licensing authority on their draft policy and they hope that their comments have been helpful and that these will be taken into account when the licensing policy is finalised.</p>
21	All, Sections 1, 2, 3, 5, 8, 8.17, 10.8, 10.14, 14	The Association of Licensed Multiple Retailers (ALMR)	<p>ALMR welcomes the opportunity to comment on the draft statement of licensing policy. A significant number of ALMR members own or operate outlets within the area and they are therefore submitting comments on the draft policy as a representative of these licensees.</p> <p>By way of background, the ALMR is the only national trade body dedicated to representing the interests of licensed retailers – principally pub, bar, club and restaurant operators.</p> <p>It will be particularly important for the policy to be clear and easily understandable without reference to the Act itself; to provide guidance to operators as to what may be expected of them; to avoid raising unrealistic expectations or implying that all control measures should be equally applied to all outlets; and to have an understanding of the costs of control measures which may be requested by other statutory consultees.</p> <p>Overview</p> <p>The policy appears to be fair and well balanced and is clear and concise – as such it is easy to follow and understand. It also gives a very clear overview of the Act itself and the framework within which decisions will be taken. Operators may well wish to have more information on processes and procedures and the authority may be advised to issue a separate leaflet for applicants and other interested parties. A glossary of terms as an Annex may also be helpful to avoid having to cross reference to the Act and Guidance.</p> <p>Officer Advice 21(a): Have referred previously to the fact that the authority will produce separate guidance on making applications.</p> <p>They note that throughout the document the term “Council” rather than “Licensing Authority” is</p>

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		<p>used. They believe that the latter is more appropriate since the Council has a broader role and some of its other functions will act as responsible authorities.</p> <p>Officer Advice 21(b): This point has already been addressed in 4 previously.</p> <p>Whilst the Association broadly supports the general thrust, tone and content of the policy, they do have a number of detailed comments to make. These are designed to be constructive to enhance the policy document and aid understanding. In the main, they are recommendations to expand various sections in order to clarify the intention of the Act and to avoid raising false expectations as to the degree of control the Licensing Authority will be able to exert.</p> <p>Section 1 – Background</p> <p>They welcome the recognition of the importance of the licensed trade to the City and feel it would be helpful to include more information on the number and type of licensed premises, better to place licensing decisions in context, eg. Numbers of people employed and the economic and tax contributions etc. Businesses licensed by the authority provide social and community spaces, facilities for residents and businesses and a vital support infrastructure for related sectors such as retail and tourism. They bring positive benefits in terms of the local economy, employment and support for cultural activities, but in order to do so, they need a supportive regulatory framework, and they trust that this will be provided through the licensing regime.</p> <p>Officer Advice 21(c): The background information provided in the policy provides a brief overview of Portsmouth and it is not necessary to expand this any further than what is currently indicated.</p> <p>Recommendation 26: No amendment to be made to policy.</p> <p>Section 2 – Introduction</p> <p>Paragraph 2.2 lists licensable activities. Whilst most performances of live or recorded music will be licensable, exception is made for incidental music and this should be reflected in the policy.</p> <p>Officer Advice 21(d): Reference is already made in this section to exemptions and incidental music and no further expansion of this information is necessary within the policy.</p>
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			<p>Recommendation 27: No amendment to be made to policy.</p> <p>Section 3 – The Licensing Objectives</p> <p>They believe it would be helpful to conclude the list of licensing objectives with a reference to the fact that these objectives are the only matters to be taken into account in determining the application and that any conditions to be attached must be necessary to achieve the licensing objectives.</p> <p>Officer Advice 21(e): This is already made clear in the section. The reference to the imposition of conditions to achieve the licensing objectives is already recognised in paragraph 12.0</p> <p>Section 5 – Fundamental Principles</p> <p>A fundamental principle of the Act is the fact that the licensing authority is only able to consider imposing conditions if their discretion has first been engaged as a result of relevant representations having been made. The licensing authority is not able to impose conditions on its own initiative. If no representations are received, the application must be granted in the terms sought and no additional conditions imposed. The draft policy should reflect this. They note the reference at paragraph 5.5 to the imposition of stricter controls with regard to noise and/or opening hours where premises are situated in residential areas. Again, they remind the authority that it is only able to do so where its discretion has been engaged by means of a relevant representation.</p> <p>Officer Advice 21(f): This matter has already been addressed in 4 and 20 previously.</p> <p>Section 8 – Licensing Process and Applications</p> <p>The policy should make it clear that references to operating schedules do not apply to those seeking to convert their existing licences under the transitional provisions.</p> <p>Officer Advice 21(g): This matter has already been addressed in 20 previously.</p> <p>They note the suggestion in the draft policy that 2 months be given for a temporary event notice.</p>
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		<p>The statutory minimum is 10 working days and they would not expect the Council to insist upon a longer notice period. They would also welcome clarification as to whether the recommended period refers to working days or calendar days. They can see no reason or justification for requiring a 2 month period for premises with an existing premises licence, since the processing of such a notice is purely and administrative function. There is also a danger that all the details of the proposed event will not be determined so far in advance – for example, a pub hosting a birthday party or function for a local sporting team after a success.</p> <p>Officer Advice 21(h): This matter has already been addressed and amendments suggested in 20 previously.</p> <p>Section 8 – Protection of children from harm</p> <p>They are somewhat surprised to see reference to outlets where the supply of alcohol is the exclusive or primary purpose listed as an area that will give rise to particular concerns in respect of children. There is a statutory ban on the presence of unaccompanied children in such outlets within the Act, as well as restrictions on their ability to buy or attempt to buy or consume alcohol and a new offence of selling to someone under age. These provide adequate protection. They also note that the Act is premised on the basis of encouraging more family friendly access.</p> <p>They do not believe, therefore, that it is helpful to categorise all such premises as inherently of greater risk. The definition of exclusive or primary use is something of a grey area and many family friendly outlets may well fall within it.</p> <p>Officer Advice 21(i): This matter has already been addressed in 4 previously.</p> <p>10.8 – Planning</p> <p>They note the reference to the effect that the authority will normally expect planning permission to have been granted before a licensing application is submitted. In the case of new developments, the two may be considered in tandem – particularly in respect of provisional statements. Whilst considerations for planning can be relevant to licensing and vice versa, they are two distinct regimes and should be freestanding. As a matter of administrative law, one should not be made contingent upon the other. There is therefore no legal basis for insisting that planning consent be</p>
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		<p>sought first nor that, in its absence, the licensing authority can refuse to determine.</p> <p>Officer Advice 21(j): This matter has already been addressed in 3 and 20 previously.</p> <p>Section 10 – High volume vertical drinking establishments</p> <p>They are unclear what definition will be used in this instance and would caution the licensing authority against applying this too widely or indiscriminately since it may result in disproportionate or inappropriate standard conditions such as occupancy limits being imposed. This section appears to go against the authority’s aim of wanting to promote customer choice. Many customers choose to stand and the provision of permanent seating is unlikely to change this. There is also no evidence to suggest that standing whilst drinking inevitably translates into high volume consumption, anti-social behaviour or over-crowding. Again, they strongly recommend that the authority adopts a case by case assessment based on the degree of risk or concern about a particular premises rather than imposing blanket requirements for permanent seating in all premises. The correct focus of the policy should be on responsible management of the premises.</p> <p>Officer Advice 21(k): Any consideration of the imposition of conditions in relation to such types of premises will be based upon information provided by the applicant in the operating schedule or as a result of relevant representations being received. Each application will be considered on its individual merit and any conditions imposed as a result of representations will be proportionate and tailored to the individual circumstances of the premises involved and which will promote the licensing objectives.</p> <p>Recommendation 28: No amendment to be made to the policy.</p> <p>Section 12 – Delegation of functions</p> <p>They would welcome inclusion in this section, details of procedures for handling conflicts of interest and best practice guidelines for the processing of applications.</p> <p>Officer Advice 21(l): This section of the policy outlines what matters will be dealt with by the Licensing Committee, sub-committee or officers. Any guidelines as regards the processing of applications will be in accordance with statutory regulations set down by the government.</p>
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			<p>Recommendation 29: No amendment to be made to the policy.</p> <p>They have shared these comments with those companies who operate businesses in the Portsmouth area and they look forward to being able to continue to work with the authority to make a success of this significant change in the licensing regime.</p>
22	All, paras 5.1, 8.1, 8.17	British Institute of Innkeeping (BII)	<p>The BII are grateful to have been given the opportunity to comment on behalf of its members with regards to this policy.</p> <p>As a general observation, it is their belief that a Licensing Authority’s policy should be a helpful document in making clear to all the view which the authority takes on a variety of issues connected with the new licensing regime. It follows on from this that the more details that is contained within the policy, the more helpful it is to those who read it. It is of particular concern to the BII and its members that there should be sufficient detail to enable those applying for licences to be quite clear about what is expected of them. This saves the time of both applicants and the staff of the many regulatory authorities in dealing with queries which may be avoided.</p> <p>The BII is a body which supports and encourages the raising of professional standards within the licensed retail sector. They support the government’s intention through the new licensing regime to increase professionalism and responsibility within the sector and they are already doing this through their awarding body, the BIIAB, with a range of nationally accredited qualifications tailored to the sector.</p> <p>They have found that where licence holders and their staff take these qualifications it has a beneficial impact on the way in which premises are operated and in consequence would have a positive impact on the licensing objectives. They do not believe that the control of licensed premises is all about the imposition of conditions and restrictions. They feel it is important to recognise the positive benefits to be gained from those who invest in proper training for staff members.</p> <p>They bring these matters to the attention of the authority as it may be considered appropriate to draw attention to these qualifications and also that the licensing policy should reflect that the authority will take a positive view of those who do invest in such training as one important method</p>

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		<p>of promoting the licensing objectives.</p> <p>They have some observations to make regarding the content of the draft policy. In general terms they consider the policy to be rather unhelpful from an applicant's perspective. It makes some statements of broad policy but contains little detail which may assist applicants in the submission of their applications or which would actually provide an insight into the views of the licensing authority. Bearing in mind that applicants must submit their applications taking into account their local licensing policy, there is little of substance within it to assist them in this process.</p> <p>As an indication of what they mean, the sections of the policy (6 & 7) which deal with cumulative impact are lengthier than those sections which deal with the four licensing objectives. Referring to those four sections, an applicant is merely met with a statement that the Council expects operating schedules to satisfactorily address these issues.</p> <p>As they observed earlier, in these circumstances, the licensing authority should not be surprised if applications are received which do not accord with its own thinking, this may result in much wasted time by it, responsible authorities and applicants themselves which could perhaps have been avoided.</p> <p>Officer Advice 22(a): The views of the BII in terms of the unhelpfulness of the policy are fortunately in the minority compared to other responses that have been received as part of the consultation process. This may be due to a difference in opinion on the part of the BII as to what information the statement of licensing policy should consist of. The policy document should (and does) set out the framework under which applications will be considered. Comprehensive information to assist an applicant in completing an application form should not form part of a general statement of licensing policy hence why in depth information as regards the application process will be provided in separate guidance.</p> <p>The BII would wish to make the following comments in relation to specific sections of the draft policy:</p> <p>Para 5.1 They would draw attention to the term "licensee" which is used here and in several other places throughout the document. Although this term is in common usage under current licensing law, where in fact it is a recognised position, they think that its use within the context of the new licensing regime may lead to confusion as to the person to whom the reference is being made.</p>
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		<p>Officer Advice 22(b): Whilst it is a minor issue as there are only 7 references to “licensees” within the policy document, the Licensing Committee may wish to address this point by amending any such references to licensee by substituting “licence holder”.</p> <p>Recommendation 30: The term “Licensee or Licensees” to be replaced by the term “Licence holder or Licence holders” where relevant.</p> <p>Para 8.1 They do not think it is appropriate or realistic to expect applicants for the various licences which the authority will issue to make themselves aware of the content of the numerous local council strategies referred to here. In their view, it is the authority’s responsibility to ensure that any necessary integration between these strategies takes place. If there are particular issues which it feels that applicants need to take into account, these should be highlighted within this licensing policy.</p> <p>Officer Advice 22(c): Whilst the licensing authority has a responsibility to ensure the proper integration of its licensing policy with other strategies and which is already outlined in section 10 in the draft policy, it would also be beneficial for applicants to have an awareness of other strategies and policies which may have a direct or indirect impact on the premises concerned, especially when they are formulating their operating schedules in order to avoid representations being made by responsible authorities. Certainly the statutory guidance makes specific reference to partnership working in order to promote the licensing objectives. However, the Licensing Committee may wish to re-word this paragraph.</p> <p>Recommendation 31: To amend the wording of section 8.1 of the policy document as follows:</p> <p>Applicants are strongly advised to make themselves aware of any relevant planning and transportation policies, local crime prevention strategies, tourism and cultural strategies and take these factors into consideration, where appropriate, when formulating their operating schedule.</p> <p>They think that the policy is mistaken in stating that the licensing objective relating to the protection of children from harm relates only to those children under the age of 16. Only section 145 of the Act uses this definition which is restricted to the provisions of that section dealing with the</p>
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			<p>admission of such individuals to licensed premises.</p> <p>Officer Advice 22(d): Advice from counsel states that this representation is incorrect although there is some inconsistency built into the Act and statutory guidance. He has therefore suggested that in the interests of simplification, amendments are made as follows:</p> <p>Recommendation 32: To amend the wording of section 8.17 of the policy document as follows:</p> <p>“A child is any person under the age of 18 years unless otherwise stated”.</p> <p>And in paragraph 8.20, amend the first bullet point as follows:</p> <ul style="list-style-type: none"> • Where alcohol is sold, requirements for the production of proof of age cards or other age identification before sales are made to persons under 18.
23	Sections, 6, 7, 8 and 10.	Portsmouth City Council Planning and Development Control	<p>They make a general point that there seems to be a lot of duplication in the information required to support a planning application and licensing application such as the location of the site and impact on residential amenity. For the policy to work effectively there is a need for licensing and planning to work closely together and ensure consistency between policies, for example the special policy areas where licensing applications may be refused and the proposal to impose quotas on the number of licensed premises in an area.</p> <p>Officer Advice 23(a): In order to address the points raised above it is important to ensure proper integration by way of the Licensing Committee, where appropriate, providing regular reports to the Planning and Development Control Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the Planning and Development Control Committee to have regard to such matters when making its decisions and avoid any unnecessary overlap. This point is already referred to in sections 9.1 and 10.9 of the draft policy.</p> <p>The reference to the proposal to impose quotas on the number of licensed premises in an area is</p>

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		<p>incorrect. Paragraph 6.9 of the draft policy expressly states that the licensing authority will not use such policies to impose quotas.</p> <p>The planning officer then refers to specific sections of the draft policy as follows:</p> <p>Section 6 - Cumulative Effect</p> <p>This section refers to the need to consider whether the licensing authority will adopt a special policy whereby there will be a presumption that applications would be refused in specific areas should representations be received in accordance with the procedures set down in the draft policy.</p> <p>There is potentially conflict with planning policy DC51 that identifies these areas as the best place to locate late night entertainment. Planning policies state that the best location for late night uses is in existing commercial areas such as the defined entertainment areas of Guildhall Walk, South Parade and Gunwharf Quays. However, the policies do recognise that issues of impact could arise and this would need to be taken into account when determining planning applications. Policy DC51 will allow for late night uses in these areas provided that there is no adverse impact on residential amenity, the cumulative effect, soundproofing to alleviate noise pollution and the impact on public safety. Therefore if a blanket ban were imposed in these areas, it would conflict with the planning policy.</p> <p>Any special licensing policy should be reflected in planning policy otherwise situations could arise whereby an applicant was granted planning permission for a licensable use but were not granted a licence.</p> <p>Paragraph 6.8 states that the licensing authority will not use policies such as imposing quotas on the number of premises or policies that restrict the trading hours. However, planning does impose conditions on planning permissions that may restrict hours of opening.</p> <p>Planning policies do impose a quota on A3 uses in certain areas (currently Albert Road Specialist Commercial area and Southsea secondary retail area, policies SJ6 and SJ7). In addition to this, planning conditions are attached to some planning applications to limit the hours of opening. This is another area where planning and licensing should work closely together, as there is not much point granting a licence where planning permission would not be granted or where late night</p>
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		<p>opening would not be allowed. However, if planning permission were secured prior to the application for a licence then this would help.</p> <p>Officer Advice 23(b): There does not appear to be an obvious conflict with planning policy DC51 in that the planning officer recognises that DC51 will allow for late night uses in these areas provided there is no adverse impact on residential amenity, the cumulative effect and the impact on public safety. This coincides with the factors that the Licensing Committee may take into account after receiving relevant representations.</p> <p>The planning officer is incorrect in assuming that a blanket ban would be imposed should such a special policy be adopted. Paragraph 6.7 of the draft policy clearly states:</p> <p>Despite the imposition of such a special policy, the Council recognises that, depending on the individual circumstances of each application, it may be possible to approve premises licences or club premises certificates if it is satisfied that they are unlikely to add significantly to the cumulative impact on one or more of the licensing objectives.</p> <p>As is stated in the draft policy, planning, building control and licensing regimes need to be properly separated to avoid duplication and inefficiency and that licensing applications will not be a re-run of the planning application and will not cut across decisions taken by the Planning and Development Control Committee. As mentioned previously, proper integration will ensure that duplication and inefficiency is avoided.</p> <p>Recommendation 33: No amendment necessary to the policy document.</p> <p>Section 7 – Other mechanisms for controlling cumulative effect.</p> <p>This section states that other regimes can address issues of bad/unlawful behaviour of customers and planning is included in this list. However, planning has no control over the behaviour of people. All planning could do would be to limit the cumulative effect by not granting planning permission in certain areas.</p> <p>Officer Advice 23(c): The use of planning permission is another mechanism for controlling cumulative effect outside of the licensing regime.</p>
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		<p>Recommendation 34: No amendment necessary to the policy document.</p> <p>Section 8 – The licensing process and applications</p> <p>There is the potential for duplication of information to be provided although this licensing policy states that it wishes to avoid duplication.</p> <p>Paragraph 8.0 states that applicants should show in their operating schedule that they have had regard to the location of the premises. Location is surely a matter for planning. If planning permission has been granted for a licensable use in a certain location then the principle of that use in that location has already been accepted and there should be no need for the matter to be addressed again.</p> <p>It is suggested that the applicant should be asked to provide a copy of the planning decision notice as part of their operating schedule as this would then highlight that they have permission for that use and whether any conditions have been imposed such as restricting hours of opening or controls that regulate noise levels.</p> <p>Officer Advice 23(d): It is important for applicants to have regard to the nature of the location of the premises and needs of the local community when preparing their operating schedule in order to promote the licensing objectives which is a separate statutory requirement to any other planning issues. Whether planning consent has been granted for the proposed use will obviously be a relevant factor for consideration.</p> <p>As the planning authority will be a responsible authority under the Act, they must be fully notified of applications and are entitled to make representations to the licensing authority in relation to an application for the grant, variation or review of a premises licence. Therefore it would not be necessary for an applicant to submit such evidence of any decision notices as part of their operating schedule as the planning authority would be entitled to make representations to the licensing authority if the proposed use did not accord with planning use. Similarly they could make representations regarding the imposition of any conditions should an applicant not make reference to any relevant matters to promote the licensing objectives in their operating schedule.</p> <p>Recommendation 35: No amendment to be made to policy document.</p>
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			<p>Section 10 – Integration of strategies</p> <p>It may be useful to refer to planning conditions in this section and state that if there are conditions attached to limit opening hours, a late night licence would not be considered until the condition had been removed.</p> <p>Officer Advice 23(e): Such protection is already provided within the policy in paragraph 8.0. Also the planning authority would also be entitled to make representations if any licensing application conflicted with other statutory requirements.</p> <p>Recommendation 36: No amendment to be made to policy document.</p>
24	8.12, 10.7 and Section 13	Portsmouth City Council, Building Control Section	<p>Paragraph 8.12.</p> <p>This paragraph refers to the wide range and types of premises that require licensing refers to the fact that it is essential that premises are constructed or adapted and operated so as to recognise and safeguard occupants against such risks.</p> <p>The Building Control Manager feels that it would be appropriate to indicate to those reading the policy document of the standards that will be applied to those premises by the licensing authority. The District Surveyors Association technical standards book (yellow guide) for example, takes into account types of premises whether it is for the consumption of alcohol or for providing entertainment. This guide has been applied by other licensing authorities for some time and has proved to be excellent guidance for authorities and operators alike. Similarly, “The Event Safety Guide” which is used essentially for open-air events and provides guidance on health, safety and welfare at music and similar events.</p> <p>The two documents are not conclusive. Some authorities set down their own particular standard relevant to a particular location or event. However the main point being that he believes that the licensing authority should declare what standards they expect and give those potential applicants guidance on the suitability of premises and the relevant management issues.</p>

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		<p>Officer Advice 24(a): Such information is relevant and pertinent for applicants for premises licences and reference to the particular publications referred to above will be included in the associated guidance to accompany the policy document.</p> <p>Recommendation 37: No amendment to be made to policy document.</p> <p>Paragraph 10.7</p> <p>To avoid duplication, inefficiency and contradiction, it is essential that certain parameters need to be established within the Council. The departments need to be consulted upon an application being made prior to a response being made. He believes that a full consultation process should be set up within PCC so that the potential for duplication/contradiction does not occur.</p> <p>Building Control is not a responsible authority defined under the Act and therefore are not statutorily obliged to be consulted on applications nor are they entitled to make representations to the licensing authority in relation to applications for the grant, variation or review of a premises licence.</p> <p>However, as referred to in paragraph 8.0, it is considered appropriate for the licensing authority to ensure that building regulation approval is relevant information to be required as part of the operating schedule. In this respect, some measure of consultation between the licensing authority and the building control department will be required to verify applications.</p> <p>Recommendation 38: No amendment to be made to policy document.</p> <p>Enforcement</p> <p>The introduction of the Act which will consolidate various licensing legislation is intended to improve the system of licensing and place more responsibility on the licence holder for compliance. In certain establishments he believes that this concept is right and acceptable. However, experience of the introduction of the Fire Precautions (Workplace) Regulations has shown that there have been numerous prosecutions and improvement notices served on premises where the “responsible person” has either neglected or failed to undertake their statutory duty. It would appear from the draft policy that enforcing authorities will be reactive following a complaint from a member of the</p>
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			<p>public or other source. Taking into account the number of clientele using licensed establishments and that some may, in the event of an emergency, be not so quick to respond due to alcohol intake, he questions whether this is a responsible line to take.</p> <p>Officer Advice 24(b): Paragraph 13.2 of the draft policy states that to ensure that resources are effectively concentrated on problem premises, the licensing authority will carry out risk assessments and target inspections accordingly.</p> <p>This does not necessarily mean that the licensing authority will only act on complaints but by agreeing protocols with the Police should provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The Act does not require inspections to take place save at the discretion of those charged with this role. The Government have indicated in the statutory guidance that the principle of risk assessment and targeting should prevail and inspections should not be undertaken routinely but when and if they are judged necessary. The guidance also suggests that this should ensure that resources are more effectively concentrated on problem premises.</p>
25		Portsmouth City Council, Trading Standards Service	<p>The new regime relating to the licensing of premises that sell alcohol is a good opportunity to try and tackle the issues surrounding the illegal supply to persons under the age of 18 years of age. Portsmouth Trading Standards would like the Statement of Licensing Policy to make specific reference to steps that prospective licence holders should be taking to avoid illegal sales taking place and a suggested text is outlined below.</p> <p>Illegal sales of age restricted goods:</p> <p>“PCC Trading Standards Service and the Police take a very serious view on the illegal sale of alcohol and other age-restricted goods. The Trading Standards Service will continue to seek to ensure that there are no illegal sales of such goods and they see the new licensing regime as a potentially effective way of tackling this issue. The link between alcohol and a range of crime and disorder issues continues to be a concern of the licensing authority under the Act.</p> <p>The sale of alcohol to minors is a criminal offence and Portsmouth Trading Standards Service</p>

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		<p>have, over time, worked to advise the off-licensed trade in particular about how to set up systems to avoid sales taking place. Trading Standards will continue to regularly conduct covert test purchasing exercises with volunteers in response to complaints and local intelligence.</p> <p>The Licensing Authority will expect applicants for licences to demonstrate that they have ensured that all their frontline staff have received adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept. Ideally, suitable training material should be issued to all staff and their understanding of the material checked through appraisals and by means of a short written test. Group training sessions amongst all staff are to be encouraged in order to discuss compliance with the legislation. Records of the material issued, appraisal meetings and any tests taken must be kept on the premises in the employees personnel file and must be made available for inspection by the Licensing Manager, Trading Standards or the Police if requested. Training will need to be refreshed periodically.</p> <p>The licensing authority will expect staff training to include a basic understanding of the law and must include a requirement of checking identification (ID) for proof of age through a secure system. Ideally, ID should be a photo driving licence or passport but other “proof of age” cards are available – the most secure are Connexions Cards, Citizencard and The Portman Card. Other cards must be treated with caution because some have been shown to be insecure. The Authority will expect that training for staff will also need to ensure that they are capable of challenging purchasers. Trading Standards regularly find that some employees engaged in selling alcohol are incapable of confronting and challenging the under 18s because they lack the confidence to do so and are concerned at the prospect of a dispute. Employees who are not prepared to challenge in this way are unsuitable and should not be given responsibility for selling alcohol.</p> <p>Employees themselves must be over 18 years of age to sell alcohol, unless the sale is authorised by someone who is over 18. If a sale is authorised in this way, the person making the authorisation is also responsible for ensuring that the purchaser is over 18.</p> <p>Licensees or employees actually engaged in selling alcohol will need to be able to effectively question purchasers so that they are satisfied that they are over 18 years of age.</p> <p>The Authority will actively encourage licensees to keep registers of refused sales (refusal books) where sales of alcohol and any other age-restricted goods have been refused for any reason.</p>
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		<p>Keeping such records will help to demonstrate that responsibilities for checking ages of purchasers are being taken seriously. Refusals books should be kept on the licensed premises and be made available for inspection by the Licensing Manager, Trading Standards or the Police.</p> <p>Particularly in premises where alcohol is not the main product sold – for example, food retailers and corner shops – the Authority will actively encourage the use of warning messages where an EPOS (electronic point of sale) system is in use. Such a warning system is of help to employees and it will prompt them to check the age of purchasers of alcohol or other age restricted products that are presented at the check out.</p> <p>In relation to pubs, restaurants and clubs, the Authority will actively encourage licensees to have due regard to the guidelines issued by the National Association of Cigarette Machine Operators (NACMO). Cigarette machines should be sited in a position where they are clearly visible to members of staff so that attempted purchases by young people can be challenged. A copy of the NACMO code of practice can be obtained from Portsmouth Trading Standards Service.</p> <p>The work of Portsmouth Trading Standards Service will continue to take place under the new licensing regime. The Licensing Manager will take a very serious view of any transgression reported to it, where or not a successful prosecution results, under the provisions of the Licensing Act 2003 or any other Trading Standards legislation.</p> <p>Advice on how to avoid selling age restricted goods can be obtained from Portsmouth Trading Standards.</p> <p>Ideally he would like to see this strengthened by requiring that licensees comply with a code of practice that embodies the points made above and goes into more detail on some issues. This in turn could necessitate membership of the Council's fair trading scheme – Fair Deal.</p> <p>In addition, he would like to see a charge made; this would fund the current UAS officer in Trading Standards (at a cost of £26,000 including on costs) to carry out the test purchasing regime and the advice provision. This is currently from the Crime and Disorder Reduction Partnership (from the Home Office) which will cease on 31 March 2005.</p> <p>Alternative wording incorporating this suggestion:</p>
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			<p>Illegal Sales of Age Restricted Goods</p> <p>PCC Trading Standards Service and the Police take a very serious view on the illegal sale of alcohol and other age restricted goods. The Trading Standards Service will continue to seek to ensure that there are no illegal sales of such goods and they see the new licensing regime as a potentially effective way of tackling this issue. The link between alcohol and a range of crime and disorder issues continues to be a concern of the Council under the new Licensing Act 2003.</p> <p>The sale of alcohol to minors is a criminal offence and Portsmouth Trading Standards Service have, over time, worked to advise the off-licensed trade in particular about how to set up systems to avoid sales taking place. Trading Standards will continue to regularly conduct covert test purchasing exercises with volunteers in response to complaints and local intelligence.</p> <p>The Authority will expect applications for licences to join a fair trading scheme – Square Deal. There will be a yearly membership of £XXX and the requirement to adhere to a Code of Practice.</p> <p>The work of Portsmouth Trading Standards Service will continue to take place under the new licensing regime. The Licensing Manager will take a very serious view of any transgression reported, where or not a successful prosecution results, under the provisions of the Licensing Act 2003 or any other Trading Standards legislation.</p> <p>Officer Advice 25(a): In consultation with counsel, the inclusion of such matters would not be relevant for the policy statement. There are ample powers under existing legislation for Trading Standards to deal with under age sales and should not be duplicated within this policy. Any reference to age restricted sales other than alcohol is also irrelevant in terms of this Act. Also, the financial support of resources of another Council department are not appropriate for inclusion into the policy, they are separate regimes and must remain as such.</p> <p>Recommendation 39: – No amendment to be made to policy document.</p> <p>9.1 Question why Environmental Health is specifically mentioned in the policy and no reference to Trading Standards.</p>
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			<p>Recommendation 40: That the wording of paragraph 9.1 is amended as follows:</p> <p>“The Council will therefore continue to work in partnership with the planning authority, environmental health, trading standards, safety authorities, the police, the fire authority, town centre managers, local businesses, performers and their representatives, local people, transport operators and those involved in child protection in order to promote the licensing objectives”.</p>
26		Chief Officer of Police for Portsmouth	<p>Response received from Inspector Richard Taylor, Community Safety Unit.</p> <p>He has now had the opportunity to consult with the Portsmouth BCU Senior Management Team and Sector Inspectors on the Council’s draft licensing policy. This enables him, on behalf of the BCU Commander, Chief Superintendent John Campbell, to formally reply.</p> <p>He would like to thank you for producing a concise and readable document. Its main strength is that it embraces the spirit of flexibility of the Act without compromising on the enforcement framework which is being put in place to support it. There are, however, some areas which they feel need some more detail and which reflect the concerns of the Constabulary in being able to adequately police the emerging Evening and Late Night Economy.</p> <p>Extended Hours</p> <p>Firstly, whilst the Policy mentions the controls for higher risk premises and those adding to the Cumulative Effect, it does not expand on the issue of extended opening hours. Clearly, they do not yet know to what extent licensees will want to take advantage of that part of the act. They do know, however, that current policing resources are stretched at night because the City’s entertainment areas create crime and disorder. There is no reason to think that extended hours alone will resolve this issue. However, a clear commitment and statement of policy by the Council would go a long way to ensuring that detailed operating schedules are submitted in the first place. The statement should tell the applicant that with increased flexibility in terms of operating hours comes more responsibility and accountability. Where extended hours are agreed, licensees need to expect tighter conditions and closer scrutiny from the enforcement agencies. A specific mention of options for pre-closure conditions, for example, such as a period of calming music and supply of food and</p>

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		<p>non alcoholic drinks would be useful here too.</p> <p>Officer Advice 26(a): The Licensing Committee may wish to amend the policy statement to recognise the concerns of the Chief Officer of Police and the expectation that operating schedules will satisfactorily address such concerns on the promotion of the licensing objectives as regards extended hours.</p> <p>Recommendation 41: Amend paragraph 8.8 of the policy statement as follows:</p> <p>“Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Council recognises the concerns of the Police in respect of extended hours and licence holders need to consider the increased responsibility and accountability that is required in order to promote the licensing objectives. The licensing authority will expect operating schedules to satisfactorily address these issues when considering the design of the premises and throughout the daily operation of the business.</p> <p>Recommendation 42: Amend paragraph 8.9 of the policy statement as follows:</p> <p>“The Licensing Authority may, after receiving relevant representations, give consideration to attaching conditions to licences to prevent crime and disorder from occurring both inside and immediately outside the premises, and these may include conditions drawn from the model pool of conditions relating to crime and disorder contained within the DCMS Guidance together with consideration of other options such as a period of calming music, supply of food and non-alcoholic drinks”.</p> <p>Secondly, as has been previously discussed, the issue of ‘over applying’ for extended hours is a serious concern for the police both here in Portsmouth and at Force level. In order that the local authorities, including Police, Fire and Council departments can adequately plan their activities around the Evening and Late Night Economy, it is only right that they know, in advance, what they are facing. It is therefore their view that any premise which secures a licence on the basis that it will operate strictly within its operating schedule, including the hours of operation and conditions imposed by the Council, should do just that. Any earlier closure of a premise, particularly if customers are expected to leave earlier than planned (other than in an emergency), they feel,</p>
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		<p>would be unreasonable and outside the spirit of the Act. They would like to see a paragraph which reflects this position, which in their view, is fair and justified and should give notice to potential applicants that this issue has been given thought by the Council.</p> <p>Officer Advice 26(b): It is understandable that those given responsibility by the Act to enforce the legislative provisions and plan their activities around the evening and late night economy have an expectation that licence holders will operate in accordance with the intended hours that licensable activities are intended to take place and as outlined in their operating schedule.</p> <p>However, section 6.14 of the statutory guidance issued in accordance with the Act states that: “Just as under the Licensing Act 1964, there is no requirement obliging a justices’ licence holder to remain open during the period of permitted hours if he or she wishes to close earlier, there is no obligation under the Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. If, for example, a public house has no trade on a particular evening, the licence holder is entitled to close the premises”.</p> <p>The only option therefore that could be considered would be “goodwill” advice in terms of how applicants should consider formulation of their operating schedules having regard to intended operating times.</p> <p>Recommendation 43: Consideration of an additional paragraph under Section 8 – The Licensing Process and Applications as follows:</p> <p>“The Licensing Authority recognises that there is no obligation under the Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. However, when considering the times during which it is proposed that the relevant licensable activities are to take place, it would be helpful in terms of assisting in the management of the evening and late night economy if applicants limited such applications to the actual hours within which they have a reasonable expectation of operating.</p> <p>Special Policy Areas</p> <p>The BCU Commander has indicated his desire, based on empirical evidence, to make a clear case</p>
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			<p>for the establishment of two Special Policy areas. They are Southsea Seafront and Guildhall Walk. They represent two of the three recognised entertainment areas in the City. It is their view that any further development of the Evening Economy, in terms of increased high risk premises, is very likely to add to the disproportionately high incidents of assaults and public disorder in these areas. It is their intention to make their representations to the Licensing Committee as soon as possible within a mutually agreed time table.</p> <p>Recommendation 44: Licensing Committee to note that the Chief Officer of Police intends to make representations to the Licensing Authority in respect of the adoption of a special policy relating to cumulative effect in the Guildhall Walk and Southsea Seafront areas.</p> <p>Partnership Working</p> <p>It is important that the new Evening and Late Night Economy Partnership is mentioned in the policy and the intention to integrate it into the licensing process. As you will know the three sub-groups have now been formed; Quick Wins and Cultural Change, Community Safety, the Environment and Transport and Licensing and Planning. Any major issues or themes resulting from the implementation of the Act should be addressed through this Partnership.</p> <p>Recommendation 45: Additional reference within paragraph 10.0 to the Evening and Late Night Economy Partnership as follows:</p> <p>“The Council shall secure the proper integration of its 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 which includes the Evening and Late Night Economy Partnership. Whilst many of these strategies are not directly related to the promotion of the four licensing objectives, they do, impact upon them. The Council recognises the importance of co-ordination and integration of such policies, strategies and initiatives”.</p> <p>He hopes that this has made clear their position on the draft policy and he looks forward to working with the licensing authority on the implementation of the Act.</p>

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27	Cosham Royal British Legion Club	<p>Pleased to submit the following representations on the draft policy. On a personal note and having received such excellent service from the licensing section over many years, he has gained comfort in knowing we are at the helm of the new changes and he looks forward to working with us. He also states at this point that all of the observations and questions as detailed below are directly related to the policies and the Act as appertaining to the licensing of Members Clubs and the impact the Act will have on the Cosham RBL Club in particular.</p> <p>Firstly, he would say that whilst in general the draft policy does lay down the policies intended for implementation by the licensing authority, he is disappointed with the “gobbledygook” style of terminology sometimes used which tends to leave some parts of the documentation open to misinterpretation by those like me who not regularly deal with “law speak”.</p> <p>It seems to miss the point that especially in respect of clubs such as theirs, they do not have the resources to use the legal profession unless absolutely necessary and they need to be independent in their understanding of the new licensing laws and do not want it to be regarded as a “black art” as the original licensing act was which was only decipherable by expensive solicitors and the like. It is essential that Club Secretaries, licensees and the like who will be at the “sharp end” of this new legislation know exactly what their limitations are in the application of the Act.</p> <p>Hopefully the transfer of the licensing authority from the Courts to the Council will enable the Act to be more “user friendly” and he hopes that further documentation will prove this to be the case and that the largely “uneducated” such as himself will understand in layman’s terms what he can and cannot do without the need for legal advice.</p> <p>There are already many advertisements offering legal services at an exorbitant cost in order to effect the application requirements for a licence on behalf of Clubs such as theirs and he fears that if not made “user friendly” this whole Licensing Act scenario will be just another opportunity to line the pockets of the legal profession!</p> <p>As previously stated, limited resources dictate that their own club will have to represent itself on the matter of licensing and all they ask is that they can avail themselves of the necessary guidance if and when required.</p> <p>Officer Advice 27(a): As mentioned previously, easy to understand guidance notes will be</p>
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		<p>produced by the licensing authority to assist applicants in submitting applications. Cosham RBL Club append notes below in accordance with headings and numbered paragraphs as they appear in the policy.</p> <p>Background</p> <p>No problems here but he says that now he has more free time to discover Portsmouth, he is encouraged by the changes that are taking place and he would agree with the statement that Pompey is becoming a “vibrant” city with much for residents and visitors to see and do. There is a lot to be done and in his opinion there are some unnecessary things being done but the main point is that things are being done and progress is being made. All involved should be congratulated (most of the time!!).</p> <p>Introduction</p> <p>2.1 The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club; - Should this have added “Any person so legally entitled entry into a club as a temporary member?”</p> <p>Officer Advice 27(b): The definition supplied is as dictated by the Act with no other reference to temporary members although the statutory guidance does provide assistance as regards supply to guests of the club. Further advice can be given to CRBL club by licensing staff.</p> <p>Licensing objectives</p> <p>He fully endorses the objectives.</p> <p>Consultation</p> <p>4.2 The views of all those person/bodies consulted shall be given appropriate weight by the licensing authority when the policy is determined – perhaps to add “or revised”.</p> <p>Officer Advice 27(c): The use of the word “determined” would also include any revisions after further consultation.</p>
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			<p>4.3 This paragraph refers to review after consultation referred to in Section 4.0. He feels that this should also include consultation with those included in sections 4.01 and 4.02.</p> <p>Officer Advice 27(d): The Act prescribes that in determining its first statement of licensing policy, the licensing authority must consult with existing licence holders as obviously, there is an absence of licence holders under the new Act. Any subsequent consultations will comply with the requirements of the Act.</p> <p>4.4 This is beneficial in that local authorities are being autonomy in dealing with items outside the statutory guidance but his only concern would be if different licensing authorities apply different interpretations as this could cause the same confusion that exists at present with Havant, Portsmouth, Fareham etc operating different guidelines on licensing which does cause dissent among some of their members who frequent RBL clubs in different Council areas and find that what is permitted under licensing in one is not necessarily permitted in another.</p> <p>Officer Advice 27(e): The Government recognises that consistency is important and they refer to the use of the statutory guidance in order to assist this process. However, it also recognises that the guidance cannot anticipate every possible scenario or set of circumstances that may arise and so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so and will need to give full reasons for their actions. On this basis, local needs may influence such a departure.</p> <p>Fundamental principles</p> <p>5.0 How can they know what to apply for if they do not know what conditions are proposed to be imposed on us – the clarity referred to should apply to the applicants equally as well as those others so affected by the new Act.</p> <p>5.1 What constitutes “a variety of permissions”</p> <p>5.2 The protection of the public and residents is of course paramount but this paragraph seems only to shift the responsibility round in circles.</p>
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		<p>5.3 Their own situation of isolation does not seem to apply here.</p> <p>5.4 Fully agree with this – it is what we Brits have been denied for over a century and it goes under the name of freedom of choice as to when we can enjoy a drink!!!</p> <p>5.5 This could restrict our new found freedom? Residential amenity and character of function of a particular area??? Contradictory of 5.2 as it would appear from this that late night licences will be granted to establishments in populated areas providing those using such premises do not leave them late at night??? Noise limitation is necessary at all times not just late at night.</p> <p>Cumulative Impact</p> <p>6.0 It could be somewhat counter productive to remove the policy of “need” as this could tend to open floodgates for new licensing applications. As long as a policy of “not needed” is not followed with regard to certain outlets (ie clubs) eg, market forces and brewery representations may argue a case for more licensing outlets in say the Cosham area due to closures of pubs in Paulsgrove. In such a situation they would seek assurances that in granting any such applications would not impact on the numbers of clubs operating in the area, ie granting applications and renewals should not be discriminatory.</p> <p>Officer Advice 27(f): Need in terms of commercial demand is not a matter for consideration by the licensing authority. The licensing authority may have regard to the potential impact on the promotion of the licensing objections where there are a significant number of licensed premises concentrated in one area.</p> <p>6.1 Seems to contradict 6.0?</p> <p>6.2 In the already congested areas as detailed he would support a special policy on this but again perhaps a rule of thumb could be drawn up as to what constitutes an “outlet congested area”</p> <p>6.3 Would agree with all as laid down.</p> <p>6.4 If not applied properly it would negate the adoption of a special policy – again a laid down criteria needs to be established which clearly defines where and under what circumstances the</p>
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			<p>special policy can be waived.</p> <p>6.5 Would agree but perhaps annually for the time being would be more effective.</p> <p>6.6 This is covered in 6.7 and as such could be deleted or there could be a dilution of the proposed strength of a special policy</p> <p>6.7 This should remain and would suggest that 6.6 be deleted.</p> <p>6.8 Would agree with all paragraphs – if the intention is to be non discriminatory then it is to be applauded.</p> <p>Officer Advice 27(g): The steps outlined in determining whether a special policy should be adopted are as per the recommendations provided within the statutory guidance and therefore no amendments should be made.</p> <p>Recommendation 46: No amendment to be made to policy document.</p> <p>7.0 Would agree with all providing it is non discriminatory and would welcome the opportunity for input.</p> <p>8.0 This area does give cause for concern and whilst he is in agreement with all of the basic policies, it is how they go about submitting their application to its best advantage both for them and the authorities. He has had difficulty interpreting the policy in defining what applies to pubs and what applies to members clubs. Will it not be possible to draw up policies and guidelines for each? He has detailed below some of the main areas of concern.</p> <p>Operating Schedule</p> <p>Before going any further he states that as a Club Secretary, he welcomes the changes that are envisaged and he is sure that the extra freedom given by the Act in the running of their business will be of great benefit in the future. Whilst he appreciates that some form of “operating schedule” is required, there is very little information in the documentation as to how this should be laid out and perhaps a draft specimen application could be produced for guidance??</p>
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			<p>Also being a Members Club, they operate under a set of Rules dictating they must operate in compliance with the licensing acts. Under the old Act this was not a problem as the operating schedule was in fact the Act itself which was very specific in its application to Clubs such as theirs in that they did what they were told and not necessarily (on occasions) what they wanted to do and in a selfish way this worked in that they could always cite the restrictions of the old Act when necessary.</p> <p>They now have a totally different scenario in that if he is reading the new Act policy correctly, they could have an operating schedule that would allow for example, extended opening hours whenever they wanted providing it is granted for inclusion in their operating schedule. This is excellent news providing the Act allows for these schedules to be changed especially during some sort of “trial period” and he explains as follows:</p> <p>At CRBL Club they will be entering totally unexplored territory regarding what would be best for their Club with regard to opening hours as they have been severely restricted in the past. For example, if they request in their operating schedule that they would like to be open until midnight every night and this is granted. They then find that they are building up a late night trade that was not causing any environmental problems and that would possibly benefit from a longer opening at weekends – say 1 am – would they be allowed to change their schedule to suite? Noting that in the first instance if they were to apply directly for a 1.00 am closing in the original schedule this may not be granted on the environmental impact concerns but which would have been proven groundless during the midnight closing test period.</p> <p>What he would like to see is a schedule of opening hours that would automatically granted to establishments on a category system based on where they are sited. This would enable clubs like theirs who are situated in densely populated areas to have a baseline to work to. Without any such test period, an alternative would be for every establishment to include 7 day 24 hour opening, or similar within their schedule to cover all eventualities and this would, he is sure, lead to chaos and an unacceptable level of work for those charged with dealing with vetting and granting the applications.</p> <p>He notes that the policy intended to be applied is from 2005 – 2008 – presumably this will allow for change in 2009 but this could be too long for many “teething problems”.</p>
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		<p>He most certainly does not want to be perceived by the licensing authority as acting “greedily” in an application for opening hours but this whole exciting new transition will be one of “suck it and see” and he for one would be most grateful if the licensing authority can operate a policy that is flexible enough to reflect this, especially in the formative early period.</p> <p>Officer Advice 27(h): The matters referred to in this section are not essentially policy matters and therefore cannot be relevant for inclusion in the policy. It will be for each applicant to decide what hours they wish to apply for, either under their grandfather rights or seek a variation upon transition. The Act provides that variation of premises licences or club premises certificates can be made so therefore an applicant could apply for different hours if required and indicate how they intend to promote the licensing objectives as regards the variation proposed. Your licensing staff will contact the Club Secretary and give one-to-one advice on the points raised here and elsewhere in the correspondence submitted.</p> <p>Protection of Children</p> <p>8.19 Question – Will this affect our Club as the description seems to apply?</p> <p>8.20</p> <ul style="list-style-type: none"> • What would be the proposed limitations? • What would be the activities? • This would be difficult as they only have bar areas?? • They operate a requirement for all parents/guardians to accompany persons under the age of 18 – will this suffice? • If applied this would effectively prohibit children in the club <p>He fully appreciates that hopefully none of the above restrictions will apply to Cosham RBL Club but what guarantees should they make in their application to convince the authorities that they will act responsibly in respect of the protection of children.</p> <p>Officer Advice 27(i): Again not matters for policy but licensing staff will address these questions directly with the Club Secretary.</p> <p>Temporary Event Notices</p>
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			<p>This area is also giving cause for confusion as at present they allow for their members to hire the facilities of their Hall to celebrate birthdays, anniversaries etc. They also provide facilities for the community eg, bingo sessions, charity nights etc and they need to know how they will be affected in these areas.</p> <p>It would be appreciated if clarification could be provided as to how these activities may be restricted as they do constitute a large part of their income and as such would be a matter of grave concern financially if they were curtailed in any way.</p> <p>He offers thanks for taking the time to read his comments and concerns and looks forward to hearing from us. He also looks forward to working with the licensing authority on what he is sure will be a welcome addition to the licensing procedures.</p> <p>Officer Advice 27(j): Advice will be given by licensing staff in respect of these matters.</p>
28		Portsmouth City Council, Environmental Protection	<p>The Environmental Protection Team of Portsmouth City Council has submitted a number of representations and proposed amendments to the draft statement of licensing policy. They requested that consideration be given to the inclusion of the following paragraph, based upon the Good Practice Guide on the Control of Noise from Pubs and Clubs:</p> <p>“In this regard the Licensing Authority expects that all such licensed premises should operate such that:</p> <p>Where entertainment involving music occurs on a regular basis, the Licensing Authority expects that the noise from music and associated sources should not be audible within noise-sensitive property at any time. The Licensing Authority considers in this context, that regular entertainment means activities involving music more frequently than twelve times in any calendar year.</p> <p>Where entertainment involving music occurs on a less regular basis, the Licensing Authority expects that the noise from music and associated sources should not be audible within noise-sensitive property between 23:00 hours and 07:00 hours. Outside these hours, reasonable control should be exercised to control noise levels.”</p>

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		<p>The Department also requested the addition of the following:</p> <p>“The Licensing Authority is concerned that in general premises that may give rise to significant levels of noise should not be structurally attached to noise sensitive premises such as residential premises. These types of developments always pose a high risk of public nuisance being caused. This is because the control of structure borne noise transmission is hard to predict and difficult to control. New applications for licenses in these circumstances are discouraged. Where such an application is forthcoming, the City Council will adopt a precautionary approach and will expect the applicant to demonstrate that adequate protection can be achieved.”</p> <p>Officer Advice 28(a): Following receipt of these representations, further advice was sought from counsel as regards amendments required to the policy to address the concerns they raise. As a consequence, counsel has proposed the following amendment to the draft statement of licensing policy.</p> <p>Recommendation 47: That the following paragraph be replaced as 8.15 of the Statement of Licensing Policy:</p> <p>“The Licensing Authority is concerned that licensed premises where musical or other amplified entertainment is provided may give rise to significant levels of noise nuisance when they are structurally attached to noise sensitive premises such as residential premises. The control of structure borne noise transmission can be hard to predict and difficult to control.</p> <p>Where an application is made in relation to premises where residential or other noise sensitive premises are structurally attached, the Licensing Authority will expect the applicant to demonstrate that all reasonable steps have been taken to ensure that adequate protection against noise nuisance can be achieved. Financial prudence indicates that the potential of noise or other nuisance should be considered at an early stage so that applicants reduce to a minimum the likelihood of failed applications or costly remedial measures in the event of justifiable complaint. Applicants are therefore are advised to consult the Good Practice Guide on the Control of Noise from Pubs and Clubs (March 2003) published by the Institute of Acoustics and available at www.ioa.org.uk which contains useful advice for applicants and local authorities.</p>
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			<p>A non exhaustive list of examples of the origins and types of nuisance is:</p> <ul style="list-style-type: none">▪ Noise from music, singing and speech originating from inside a building.▪ Noise from music, singing and speech originating from outside a building.▪ Activity within gardens and play areas▪ Rowdy behaviour▪ Use of car parks and access roads▪ Delivery/collection/storage activities▪ Staff activity▪ Cleaning/Wash-up activities▪ Plant and machinery <p>Public odour nuisance can be caused by a variety of activities associated with licensed premises. This includes:</p> <ul style="list-style-type: none">▪ Inadequate storage of food waste▪ Cooking activities▪ Cooking extract systems <p>The applicant’s operating plan should identify and assess the potential risks of public nuisance arising from each part of the intended activity and set out the measures that they intend to take to minimize the risk to an acceptable level. These measures may include:</p> <ul style="list-style-type: none">▪ Layout of the premises or site (e.g. exit locations)▪ Design of the building or site (e.g. sound insulation measures)▪ Design of plant or equipment▪ Provision of devices limiting noise levels▪ Provisions to monitor noise▪ Operational measures▪ Management measures▪ Measures to prevent the transmission of sound (e.g. acoustic barriers)▪ Staff training▪ Operational times / Scheduling of activities
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			<p>The complexity and detail of this part of the Operating Schedule will depend upon the significance of any risk of public nuisance being caused. Where there is a high risk of public nuisance, the operating schedule will need to be supplemented by a technical acoustic report. In particular, where applications are submitted to operate licensed premises between hours that include any part of the hours between 2300 and 0800 applicants will be expected to demonstrate that operating during these hours will not have an adverse effect on the licensing objectives and set out the steps which they propose to take to secure these objectives.</p>
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