

Isle of Wight Council
LICENSING ACT 2003
SECTION 5

Statement of Licensing Policy
January 2019 – January 2024

Document Information

Title:	LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY
Status:	IN CONSULTATION
Current Version:	DRAFT
Author:	Amanda Gregory – Strategic Manager Regulatory & Community Safety Services Directorate of Neighbourhoods ✉ amanda.gregory@iow.gov.uk ☎ (01983) 821000
Sponsor:	Director of Neighbourhoods
Consultation:	8 November 2018 - 30 November 2018
Approved by: Approval Date:	
Review Frequency:	5 Years
Next Review:	January 2014

Version History		
Version	Date	Description
1	30-10-18	First Draft

Contents

	Document Information	2
	Contents	3
1	Introduction	4
2	Licensing Objectives	6
3	Licensable Activities	7
4	Integration of Strategies & other Legislation	8
5	Approach to Licensing Applications.....	10
6	Major Events.....	12
7	Cumulative Impact	13
8	Representations, Reviews, Appeals & Complaints.....	15
9	Enforcement	17
10	Operating Schedules	18
11	Data Protection.....	24
12	Related Documents	25
13	Appendix A	27

1 INTRODUCTION

- 1.1 This document sets out the Isle of Wight Licensing Authority's policy in respect of its licensing functions for the sale of alcohol, provision of regulated entertainment and the provision of late night refreshment. The policy will be kept under review, and where any amendments are considered necessary, these will only be made after consultation has taken place in accordance with Section 5(3) of the Licensing Act 2003 ("the Act").
- 1.2 Further licensing statements will be published every five years thereafter, unless amending legislation dictates otherwise. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182 of the Act ("the statutory guidance").
- 1.3 The Isle of Wight Council is the Licensing Authority for the Act. Any reference to "the Licensing Authority" in this policy refers to the Isle of Wight Council.
- 1.4 Where revisions are made to the Statutory Guidance by the Secretary of State, it will be for the Licensing Authority to determine whether revisions to its Statement of Licensing policy are appropriate.
- 1.5 Before determining its policy for any five year period, or if revising a policy within a period, the Licensing Authority must consult the persons listed in Section 5(3) of the Act. These are:
- the chief officer of police for the licensing authority's area,
 - the fire and rescue authority for that area,
 - each Local Health Board for an area any part of which is in the licensing authority's area,
 - each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
 - such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
 - such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 1.6 The views of all persons/bodies listed shall be given appropriate weight when the policy is determined. A list of consultees is available on request from the Licensing Authority.
- 1.7 It is recognised that in some areas it may be difficult to identify persons or bodies that represent all parts of the industry affected by the provisions of the Act but the Licensing Authority will make all reasonable efforts to do so.

- 1.8 This statement is intended to assist officers and members in determining applications and to set down those factors that will normally be taken into consideration. Equally, this document seeks to provide clarity for applicants, responsible authorities, residents and other occupiers of property and investors, with some measure of certainty.
- 1.9 More detailed information for applicants is available in the booklet 'Guidance for Applicants', available by email or in paper format from the Licensing Authority.

2 LICENSING OBJECTIVES

- 2.1 The Isle of Wight has many and varied licensed premises and events. The Licensing Authority recognises that these play a vital part in the cultural identity of the Island and are main contributors to the local economy. They attract tourists and visitors and make for vibrant towns and communities, while at the same time providing employment.
- 2.2 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the Act. Where valid representations are made, the Licensing Authority will make objective judgements as to whether conditions need to be attached to a licence, certificate or permission to ensure that the four licensing objectives are promoted at the premises being used for licensable activities and within the vicinity of those premises.
- 2.3 When dealing with licensing matters the Licensing Authority will promote and have regard to the four licensing objectives, which are of equal importance, set out in the Act. These are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 2.4 The Licensing Authority recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of the local authority, responsible authorities, local business, performers and local people. In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule (see Section 9 below), will be implemented and maintained, relevant to the nature and mode of operation of their premises and events.
- 2.5 The Licensing Authority recognises that licensable activities are an important part in the cultural life of our community. In regulating activities under this legislation it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 2.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises, and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation.

3 LICENSABLE ACTIVITIES

3.1 The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events.

Licensable activities are:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club
- The provision of regulated entertainment; and
- The provision of late night refreshment

3.2 Subject to certain conditions, definitions, limitations and exemptions contained within Sections 173 to 175 of the Act, as amended, the provision of regulated entertainment for the public, or club members or with a view to profit, is defined as:

- An exhibition of a film
- A performance of a play
- An indoor sporting event
- Boxing or wrestling entertainment (indoor and outdoor)
- A performance of live music
- The playing of recorded music
- Performance of dance
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music or the performance of dance.

3.3 Late night refreshment, which is subject to certain exemptions, is defined in Schedule 2 of the Act and relates to the supply of hot food or drink to members of the public on or from any premises for consumption on or off the premises between 2300hrs and 0500hrs.

3.4 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment in certain circumstances. In cases of doubt, advice should be sought from the Licensing Authority.

4 INTEGRATION OF STRATEGIES AND OTHER LEGISLATION

4.1 The Licensing Authority recognises that as part of implementing any cultural strategy it must encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. The absence of cultural provision in an area can lead to an increase in anti-social behaviour.

The successful delivery of the licensing objectives will depend upon the successful integration of this Statement of Licensing Policy with other local crime prevention, planning, transport, tourism, equality schemes and cultural strategies together with any designed to address the management of town centres and the night time economy.

4.2 The Equality Act 2010 replaces previous anti-discrimination legislation with a single act. A key part of the Equality Act 2010 is the requirement to meet the public sector equality duty. The following protected characteristics covered are:-

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race (this includes ethnic or national origins, colour or nationality)
- Religion / belief – this includes lack of belief
- Sex
- Sexual orientation, marriage and civil partnership (but only in respect to have due regard to the need to eliminate discrimination).

The Equality Act 2010 simplifies the law, removing inconsistencies and making it easier for the local authority to comply by imposing a general duty and specific duties.

The general duty has three aims, to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people from different groups
- Foster good relations between people from different groups

The specific duties require:

- The council to set specific measurable equality objectives
- The publication of performance information in relation to the objectives

4.3 The Licensing Authority will consider any local Crime, Disorder and Drugs Strategies where appropriate for the promotion of the licensing objectives.

4.4 Prior to submitting an application to the Licensing Authority the applicant should note that whilst the Licensing Authority may give authorisation for certain operating hours, the responsibility lies with the applicant to ensure that any necessary planning consents are obtained for the hours and activities for which the application is being made.

- 4.5 The Licensing Authority recognises that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. However, where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, the Licensing Authority will consider discussion with planning officers prior to determination with the aim of agreeing mutually acceptable operating hours.
- 4.6 The Licensing Authority will seek to avoid attaching conditions that duplicate other regulatory regimes as far as possible. However, if other legislation does not cover the unique situations that may arise, additional controls may be imposed to secure the licensing objectives.
- 4.7 Prevention of disturbance to neighbourhoods will always be carefully balanced with the wider cultural benefits. Care will be taken to ensure that only appropriate and proportionate licensing conditions are attached to licences. Conditions will relate solely to the promotion of the licensing objectives.

DISPERSAL POLICIES

- 4.8 People can cause disturbance when returning to residential areas from later-opening premises elsewhere. These problems may not be within the direct control of any particular licensed premises. However, premises licence holders are generally expected to take measures to encourage people to leave their premises quietly and considerately. The Licensing Authority would encourage premises to adopt a dispersal policy where appropriate.

PUBLIC SPACE PROTECTION ORDERS (PSPOs)

- 4.9 These were formerly known as Drinking in Public Place Orders (DPPO) and the Anti-Social Behaviour, Crime and Policing Act 2014 made provision for the existing DPPO's to continue for up to one year. The Council recognises the effectiveness of this tool in preventing crime and disorder and tackling anti-social behaviour.
- 4.10 Public Spaces Protection Orders (PSPOs) propose to deal with a particular nuisance in a particular area which is having a detrimental effect on the quality of life for those in the local community. It can prohibit certain things or require specific things to be done. For example it may prohibit the consumption of alcohol in a specific place.
- 4.11 Failure to comply with the order can result in a fine or a fixed penalty notice. It is proposed to implement a PSPO on 1 May 2019, all existing DPPO areas will automatically be covered.

5 APPROACH TO LICENSING APPLICATIONS

- 5.1 Each application will be determined on its individual merits. When considering applications, the Licensing Authority will have regard to this policy and Statutory Guidance. However, this policy and the guidance cannot anticipate every set of circumstances which may arise. Accordingly, the Licensing Authority may depart from them if they have reason to do so. In that event, the Licensing Authority will give full reasons for the decision.
- 5.2 Nothing in this policy will undermine the right of any person to apply under the Act for a variety of permissions and have any such application considered on its individual merits. Similarly it will not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so in the Act.
- 5.3 Conditions will be tailored to the individual characteristics of the premises and standardised conditions will not be used. However, the Licensing Authority may draw upon a pool of conditions from which appropriate and proportionate conditions may be attached in particular circumstances.
- 5.4 Statutory Guidance encourages the use of the words such as “must”, “shall” and “will” within licence conditions. Guidance also states that conditions must:-
- a) be appropriate for the promotion of the licensing objectives;
 - b) be precise and enforceable;
 - c) be unambiguous and clear in what they intend to achieve;
 - d) not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - e) be tailored to the individual type, location and characteristics of the premises and events concerned
 - f) not be standardised as they may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - g) not replicate offences set out in the Act or other legislation;
 - h) be proportionate, justifiable and be capable of being met;
 - i) not seek to manage the behaviour of customers once they are beyond the direct management of the operator and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - j) be written in a prescriptive format.

TAKEAWAY PREMISES AND PREMISES PROVIDING LATE NIGHT REFRESHMENT

- 5.5 The Licensing Authority considers that it will normally be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises (“takeaway” premises).
- 5.6 It is recognised that takeaway premises open late at night can be associated with disorder as people under the influence of alcohol having left, or in some cases being

ejected from late night venues congregate there. Applicants are recommended to have clear written policies for dealing with disorder and nuisance.

- 5.7 The schedule of delegations for dealing with matters under the Act is provided at Appendix A.

6 MAJOR EVENTS & ISLE OF WIGHT COUNTY COUNCIL ACT

6.1 The Licensing Authority will expect organisers of major festival or other large events to approach the Authority at the earliest opportunity to discuss arrangements for licensing activities falling under the Act, as these events may involve the preparation of a substantial operating schedule. In addition, where it is intended that more than 4999 persons will be in attendance, the provisions of the Isle of Wight County Council Act 1971 will apply. Detailed information regarding this legislation is contained within separate guidance, available from the Licensing Authority.

6.2 The Isle of Wight County Council Act requires organisers of events to give at least four months' notice of the event if more than 5,000 people will be permitted to attend.

Notice of an event must be given in writing to the Licensing Department and should be accompanied by:

- a) Purpose of the intended event e.g. music festival.
- b) Day(s) on which the intended event will be held.
- c) Duration of the intended event.
- d) Time(s) during which the intended event will be held.
- e) Location and limits of the site where the intended event is to be held.
- f) Maximum number of people attending the intended event.
- g) Copy of an event safety plan or operating schedule.
- h) Plan of the site.

6.3 Events which require notification under the Isle of Wight Act are likely to be discussed by the Safety Advisory Group.

SAFETY ADVISORY GROUP

6.4 The main role of the Safety Advisory Group is to provide specialist advice to the Local Authority to help it discharge its functions under either sports grounds or public events legislation. The Group will also provide advice and assistance to the event organisers in order to enhance public safety at the event.

6.5 The Safety Advisory Group's core membership consists of representatives from the following agencies:

- a) Chair (from the Local Authority Licensing Team)
- b) Licensing
- c) Hampshire Constabulary
- d) Isle of Wight Fire and Rescue Service
- e) Isle of Wight NHS PCT -
- f) Environmental Health Department
- g) Building Control
- h) Emergency Management
- i) Highways Authority

6.6 Representatives from other services or bodies may be invited to meetings where required.

7 CUMULATIVE IMPACT

- 7.1 The Licensing Authority will not take 'need' into account for a particular type of premises on the Isle of Wight when considering a licence application. This is a matter for planning development control and market forces.
- 7.2 The Licensing Authority recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder.
- 7.3 Representations may be received from a “responsible authority” (as defined by section 69(4) of the Act or other person (see 7.1 below) that an area has become saturated with premises making it a focal point for large groups of people. This concentration of premises may be creating exceptional problems of nuisance and disorder over and above the impact from the individual premises.

Any person may request the Licensing Authority to consider developing and adopting a Special Policy providing that they identify concern about one or more of the following:

- crime and disorder;
- public safety;
- public nuisance; and
- protection of from children.

Any request must be supported with evidence to demonstrate such concerns.

- 7.4 When deciding whether to adopt a “special policy” the Licensing Authority will:
- Identify concern about crime and disorder or public nuisance;
 - Consider whether there is good evidence that crime and disorder and nuisance are happening and are caused by the customers of licensed premises. If so, identifying the boundaries of the area from which problems are occurring. The risk factors may be such that the area is reaching a point when a cumulative effect is imminent. Evidence of anti-social behaviour from the police or Community Safety Partnership and noise disturbance from environmental health officers will be taken into account;
 - Consult with those specified by section 5(3) of the Act, and subject to that consultation,
 - Include and publish details of any special policy as part of the statement of licensing policy.
- 7.5 In these circumstances, the Licensing Authority may decide that the application of specific conditions is unlikely to address these problems. It may instead consider refusing new premises licences or club premises certificates if it believes that the granting of any more would undermine the licensing objectives.
- 7.6 Where a special policy is adopted, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact already being

experienced. Where representations are received, the onus will be on the objector to provide evidence that the addition of the premises in question would produce the cumulative impact claimed. It is worth remembering that the impact will be different for premises with different styles and characteristics.

- 7.7 The Licensing Authority may approve licences that are unlikely to add significantly to the cumulative impact, e.g. restaurants, theatres etc. Departures from the special saturation policy may be made and so it is not absolute. The Licensing Authority will always consider the circumstances of each individual application on its own merits.
- 7.8 The adoption of a special policy does not relieve responsible authorities or other persons of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to its special policy.
- 7.9 Once adopted, the special policy, or policies, will be reviewed regularly to assess whether they are still required or need expanding.
- 7.10 A special policy will not be used as a ground for revoking existing premises licences or certificates when representations are received about problems with those premises. Cumulative impact relates to the effect of a concentration of many premises and so identifying individual premises in the context of a review would be arbitrary. The special policy will also not impose any trading hours, terminal hours or quotas (number or capacity of premises) as this would remove regard to the individual characteristics of the premises concerned.

8 REPRESENTATIONS, REVIEWS, APPEALS and COMPLAINTS

- 8.1 Any person may make representations to the licensing authority in writing on any application for grant, variation or for the review of a premises licence.
- 8.2 The licensing authority must give appropriate weight to the representations (including supporting information) presented by all parties.
- 8.3 An aggrieved person whose representation is not regarded as “relevant” or is determined as “vexatious” or “frivolous” or “repetitious” may challenge the authorised officers’ opinion by way of the Isle of Wight Council’s complaints procedure or through the courts by way of judicial review.
- 8.4 If valid representations are received during a consultation period and remain outstanding once the consultation has ended then a meeting of the Licensing Sub Committee must be convened in order to determine the application.
- 8.5 The Licensing Sub Committee consists of three elected members and will hear applications where representations have been received.
- 8.6 Hearings will normally be held in public except where the Licensing Authority considers that it is in the public interest to exclude the press and public from all or part of the hearing.
- 8.7 The Licensing Authority can only review a licence where it is alleged that the licensing objectives are not being met. The Licensing Authority will hold a review hearing to consider the merits of an application or licence where the representation is considered relevant. In order to be relevant it must relate to the effect of the licence on the promotion of at least one of the licensing objectives. A hearing will be held unless authorised officers make the decision that the application is repetitive or is vexatious or frivolous.
- 8.8 A committee of elected members will consider review applications. Review applicants, licence holders and any other person who has made a relevant representation will be informed of the hearing procedure and invited to attend such hearings to present their case. Hearings will be held promptly so that the issue can be dealt with efficiently and effectively.
- 8.9 Whilst arrangements for a review hearing are initiated, authorised officers of the Licensing Authority will make an effort to consult with the licence holder and review applicant in an attempt to resolve any issues prior to the hearing.
- 8.10 Following a review hearing the Licensing Authority may: -
- Modify the conditions of the licence;
 - Exclude a licensable activity from the scope of the licence;
 - Remove the designated premises supervisor;
 - Suspend the licence for a period (not exceeding three months); or
 - Revoke the licence
- 8.11 The Licensing Sub Committee will give clear and considered reasons for all decisions.

- 8.12 The Act contains provision for appeals by aggrieved parties against decisions made by the Licensing Authority. Any appeal must be made to the Magistrates' Court.
- 8.13 The rights of appeal and reasons for the decision(s) taken by the Licensing Authority will be provided in writing to all parties concerned with any licensing decision.
- 8.14 The Licensing Authority will make comprehensive records of any hearing held in connection with its licensing functions under the Act, which will include the recording of hearings.
- 8.15 Any complaints in respect of procedural matters should be addressed via the Council's Complaints procedure in the first instance.

9 ENFORCEMENT

- 9.1 The Licensing Authority will establish enforcement protocols with the local Police and the other authorities on enforcement issues. This does not prohibit the Licensing Authority from taking independent action.
- 9.2 The aim of such protocols will be to target higher risk and problem premises which require greater attention, while providing a lighter touch in respect of low risk premises or those which are well run.
- 9.3 The principles of risk assessment and targeted inspection will prevail, and inspections of licensed premises will not be undertaken routinely but when and if they are judged necessary.
- 9.4 When judged necessary to do so, authorised officers of the Licensing Authority and responsible authorities will from time to time carry out unannounced inspections or test purchase visits to licensed premises in order to ensure compliance with the provisions of the Act and any other associated legislation.
- 9.5 Any enforcement action instigated by the Licensing Authority will be in accordance with the Regulatory Services Enforcement Policy, available in paper format from the Licensing Authority.
- 9.6 The Council will strictly enforce the powers to suspend licences for non-payment of annual fees in accordance with Section 55a of the Act.

10 OPERATING SCHEDULES

- 10.1 The Operating Schedule forms part of the completed application form for a premises licence. Specific requirements on what it should contain and how it should be presented are contained in Section 17 of the Act and in regulations. However, general policies relevant to each of the licensing objectives are detailed below.
- 10.2 Any measures outlined in the operating schedule, where relevant to the four licensing objectives, will be incorporated as conditions within the licence and will become enforceable.

Prevention of Crime and Disorder

- 10.3 Licence holders are seen as playing a key role in the prevention of crime and disorder and must address this issue in their operating schedule. The range and scope of control measures will depend on a number of factors including the:
- Nature and style of the venue
 - Activities being conducted there
 - Location of the premises
 - Anticipated clientele of the business involved.

To demonstrate to the Licensing Authority that adequate provision has been made, consideration should be given to including the following, where appropriate, within the Operating Schedule:

- Staff training as regards roles and responsibilities within the Licensing Act
 - Incident records, including refusals logs
 - The use of plastic or polycarbonate glassware, particularly in venues where licensable activities take place after 2300hrs, or in the case of large or outdoor events where the risk of disorder or injury resulting from broken glass is raised.
 - The provision of door staff
 - The imposition of a last entry time
 - The provision of CCTV
- 10.4 The Licensing Authority will expect licence holders to have adequate management practices in place as well as suitable training for staff, to ensure that sales of alcohol are not made directly or indirectly to persons under the age of 18. Practices also need to be in place to ensure that sales are not made to persons who are either drunk or, in the opinion of the member of staff, may be reasonably expected to commit crime and disorder.
- 10.5 The Licensing Authority commends initiatives such as Pubwatch, and will strongly encourage all retailers of alcohol to take part in such a scheme, as active membership will be seen as an indicator of attempts to reduce crime and disorder.

- 10.6 The Licensing Authority will also expect licensees to be aware of the misuse of drugs, and take all reasonable steps to prevent the entry of drugs into the licensed premises. Licensees must take appropriate steps to prevent drugs being supplied within the premises.

Public Safety

- 10.7 Applicants must indicate in their operating schedule the steps proposed to ensure public safety.
- 10.8 To demonstrate to the Licensing Authority that adequate provision has been made, the following should be included, where appropriate, within the Operating Schedule:
- Details of the occupancy numbers to be permitted in the premises, and the management arrangements to ensure they are not exceeded.
 - A copy of the emergency procedure plan.
 - Details of fire safety provisions and escape routes from the premises to a place of ultimate safety with any significant features should be identified on the plan accompanying the application and described in the operating schedule.
 - Supporting evidence demonstrating adequate maintenance of fire safety provisions and systems, e.g. current servicing certificates.
 - Adequate provision for the safety of persons with disabilities or impairments.
 - Adequate provision of safe ingress and egress to the premises at all times when in use
 - Suitable recording of maintenance, tests and training.
 - Testing of electrical wiring and systems (temporary and permanent)
 - Suitable access for emergency vehicles
 - Adequate arrangements for the provision of first aid equipment
 - Adequate safety for indoor sports entertainment
 - Adequate numbers of attendants and marshals
 - Adequate arrangements for the safe use and storage of equipment, used for special effects

The Prevention of Public Nuisance

- 10.9 The Licensing Authority is committed to reducing the adverse impact of licensable activities, whilst not unduly restricting the legitimate desire of licensees to provide such activities.
- 10.10 Activities involving regulated entertainment or eating or drinking on the premises have the potential to impact adversely on the surrounding area. The impact of noise generated by these activities and customers departing either on foot or in cars can be particularly intrusive at night when ambient noise levels are much lower.
- 10.11 More strict conditions with regard to noise control will be expected in certain areas of the Island, which have denser residential accommodation or low levels of background noise but this will not justify limiting opening hours without regard to the individual merits of any application.

Noise Controls

10.12 The operating schedule must have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. The Licensing Authority will expect the schedule to demonstrate how it is intended that the premises will be “good neighbours” to residents and to other venues and businesses. Businesses should have regard to relevant guidance.

Noise Conditions

10.13 Consideration may be given to conditions for the prevention of public nuisance, to that ensure that:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to the occupants of nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, (whilst providing adequate mechanical ventilation)
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties
- Prohibit certain rooms from being used for purposes that create noise
- The use of explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in surrounding areas are restricted
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level
- Installing soundproofing measures to contain sound and vibration
- Restrictions on the location and use of areas designated for smoking

10.14 The Licensing Authority will expect the applicant to propose practical steps as to how disturbance to local residents will be prevented and the following general issues should also be covered in the operating schedule:

- The establishment of an appropriate noise assessment procedure
- The establishment of monitoring systems to demonstrate compliance with noise policies and with any specific noise restrictions
- The establishment of an internal communications procedure for dealing with noise issues
- The establishment of methods for logging and responding to noise complaints within appropriate time limit
- The provision of general advice and training on noise control to employees

10.15 Applicants are encouraged to liaise with Responsible Authorities as appropriate when drafting operating schedules as this could reduce the likelihood of representations being received

External Areas

- 10.16 The introduction of the requirement for smoke free public places under the Health Act 2006 has led to an increase in the number of people outside licensed premises. The provision of tables and chairs outside premises can enhance the attractiveness of a venue, but regard should be had to the need to ensure that the use of such areas will not cause nuisance to the occupiers of other premises in the vicinity. In particular, those with authorisations are expected to manage persons smoking in the vicinity of premises so they do not impede access to the premises and do not cause disturbance. In addition they are expected to provide secure ash trays or wall mounted cigarette bins for patrons so as to minimise litter.
- 10.17 Licensees should also be aware of the possibility of breakages of drinking glasses and glass bottles in outside areas. Consideration should therefore be given to the use of toughened or “plastic” drinking vessels and other management controls to avoid or lessen the likelihood of broken glass in these areas.
- 10.18 The leaving of tables and chairs and other street furniture on the public highway requires the permission of the local authority under the Highways Act 1980. Permissions issued under this legislation requires street furniture to be removed outside of the hours permitted. Operating schedules are expected to address adequately potential crime and disorder and public nuisance issues that may arise and show how the adverse impact would be avoided, this may include proposals for removing the tables and chairs before certain times, or otherwise effectively limiting or preventing their use outside certain hours.

Anti Social Behaviour

- 10.19 It is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning.

If premises are open after 2300hrs it will be expected that:

- The premises will have an operating schedule agreed with the Licensing Authority that indicates the applicant is taking appropriate steps to comply with the licensing objectives of preventing public nuisance and the prevention of crime and disorder.
- There will not be any increase in the adverse impact from these or similar activities, on adjacent residential areas.
- There is a particularly high level of public transport accessibility to and from the premises at the appropriate times.
- The activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets.
- There will be minimal adverse impact relating to the conduct of customers outside the venue or in any garden or smoking area.

Exterior Lighting

10.20 Exterior lighting and security lighting must be positioned to reduce light pollution in neighbouring residential properties.

Odour/litter

10.21 Where appropriate consideration of the actual or intended controls over odour and litter should be addressed in the operating schedule. This should include measures to control any smoking related litter generated by customers in the vicinity of the premises.

Protection of Children from Harm

10.22 The Licensing Authority does not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm to them. This policy cannot anticipate every issue of concern that could arise in respect of children and individual premises. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

10.23 Conditions requiring the admission of children to any premises will not be imposed. This will remain a matter for the discretion of the individual licence holder, club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may volunteer such prohibitions and restrictions in their operating schedules if they have determined that the presence of children is undesirable or inappropriate.

10.24 The Licensing Authority will pay particular attention to ensuring the protection of children in the following circumstances:

- Where enforcement action has been taken against a member of staff for selling alcohol to children or where the premises has acquired a reputation for underage drinking
- Premises with a known association with drug taking or drug dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- Where entertainment or services of an adult or sexual nature are provided

10.25 Entertainment or services of an adult or sexual nature will include topless bar staff, striptease, lap dancing, table dancing or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. In such circumstances it will usually be appropriate to impose a condition to exclude any person under the age of 18.

10.26 It is expected that any operating schedule will demonstrate how the licence holder will ensure that no harm comes to any child by virtue of the licensable activities. The range of alternatives for limiting access to children include:

- Limitations on the hours when children may be present
- Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place

- Limitations on the parts of premises to which children might be given access
- Age limitations below 18
- Requirements for accompanying adults and
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

- 10.27 Where there is provision of entertainment specifically for children (e.g. a children's disco) or where the children themselves are performers, the Licensing Authority will require the presence of sufficient adults to control the access and egress of the children and ensure their safety.
- 10.28 The Licensing Authority expect licence holders to include in their operating schedule arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification (BBFC) at www.bbfc.co.uk.
- 10.29 Where the exhibition of films is permitted the authority will expect the age restrictions of the BBFC in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Licensing Authority and then only with appropriate safeguards.
- 10.30 For specialist film festivals where it is desired to show films not classified by the BBFC, the Licensing Authority will, provided adequate notice has been given, classify the films concerned. The Licensing Authority will use the guidelines published by the BBFC to do this. This information will be published on the Licensing Authority's website.
- 10.31 In respect of licensing matters the Licensing Authority, recognises the Isle of Wight Council's Directorate of Childrens' Services as responsible for children and young persons and as the Responsible Authority in relation to the protection of children.

11 Data Protection

- 11.1 The Isle of Wight Council is the data controller for the personal information provided by an individual on any application, notice or notification of interest submitted under the Licensing Act 2003. The council's Data Protection Officer is Helen Miles, Head of Legal Service and Monitoring Officer and can be contacted at dpo@iow.gov.uk. You can contact the council by phone on 01983 821000, or by writing to us at County Hall, High Street, Newport, IW PO30 1UD.
- 11.2 Information will be used to allow the Council to process any applications or authorisations applied for under the Licensing Act 2003. In accordance with Data Protection law, the legal basis for this is for the performance of a task carried out in exercise of official authority. Information will be shared with other council departments and external bodies including the Police for the purposes of processing applications and/or authorisations.
- 11.3 We will keep personal data for 6 years or as long as we are required to do so under relevant legislation or in accordance with our operational requirements. Our retention schedule can be viewed on our website www.iwight.com.
- 11.4 For further details on how information is used; how we maintain the security of information; and the rights of an individual, including how to access information we hold on you, and how to complain if you have any concerns about how personal details are processed, please visit www.iwight.com or email dpo@iow.gov.uk.
- 11.5 The Act requires the Council to keep a register of:-
- a) A record of each Premises Licence, Club Premises Certificate and Personal Licence issued by it;
 - b) A record of each Temporary Event Notice received by it;
 - c) Details of various applications and notices received by the Council (as set out in Schedule 3 of the Act); and
 - d) Such other information as may be prescribed.

12 Related Documents

- Corporate Plan <https://www.iwight.com/documentlibrary/download/corporate-plan-2017-2020>
- Licensing Act 2003 <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Licensing Act S182 Guidance <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

If you would like this document translated please contact us on 01983 821000

Arabic

إذا رغبت بالحصول على نسخة مترجمة من هذه الوثيقة يرجى الاتصال بنا على
01983 821000

Bengali

এই দলিলটির অনুবাদ চাইলে, দয়া করে ফোন করুন:
01983 821000

Chinese

如果你想翻譯這份文件，請與我們聯係：
01983 821000
如果你想翻译这份文件，请与我们联系：
01983 821000

French

Si vous désirez que ce document soit traduit,
contactez-nous s'il vous plait au : 01983 821000

German

Falls Sie eine Übersetzung dieses Dokuments
wünschen, wenden Sie sich bitte unter der folgenden
Rufnummer an uns: 01983 821000

Hindi

यदि आप इस दस्तावेज़ का अनुवाद चाहते हैं, तो कृपया टेलिफोन नम्बर
01983 821000 पर सम्पर्क कीजिए।

Italian

Se desiderate la traduzione di questo documento,
contattateci allo : 01983 821000

Punjabi

ਜੇਕਰ ਤੁਸੀਂ ਇਸ ਦਸਤਾਵੇਜ਼ ਦਾ ਅਨੁਵਾਦ ਚਾਹੁੰਦੇ ਹੋ, ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ
ਟੈਲੀਫੋਨ ਨੰਬਰ 01983 821000 ਤੇ ਸੰਪਰਕ ਕਰੋ।

Spanish

Si desea una traducción de este documento por favor
llame al nº de teléfono: 01983 821000

Urdu

اگر آپ اس دستاویز کا ترجمہ حاصل کرنا چاہتے ہیں تو اس نمبر پر فون
01983 821000 کریں

This information is available on request as an audiotape,
in large print, in Braille and in other languages.
For further details please contact Environmental Health on (01983)
821000

Schedule of Delegations

Appendix A

Matter to be dealt with	Sub-Committee	Authorised Officer
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, repetitious or vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Application for minor variation of a premises licence or club premises certificate		All cases