

APPENDIX C

South Hams District Council

STATEMENT OF LICENSING POLICY (Licensing Act 2003) CONSULTATION RESPONSES

NAME OR ORGANISATION	COMMENTS	APPRAISAL	SUGGESTED AMENDMENTS
<p>Cllr John Birch</p>	<p>“In response to the consultation document I propose that the Council adopts and issues a Licensing Hearing Procedure in order to assist and provide guidance for participants in such hearings. I provide a link showing an example.”</p>	<p>There is a South Hams Licensing Hearing Procedure already in place. An online hearing protocol has recently been created and will be incorporated into the document.</p> <p>The document is standalone and separate to the Statement of Licensing Policy so that it can be updated as necessary.</p>	<p>No amendment to policy required. Licensing Hearing Procedure will be updated and added to website so it is readily available to members of the public.</p>
<p>Fire Authority</p>	<p>“Having reviewed the draft documents, the Fire Authority wish to offer no observations on this occasion.”</p>	<p>In support of the policy.</p>	<p>No amendment to policy required.</p>
<p>Fiona Douglas</p>	<p>“I think it would be a good idea to ban alcohol on the beaches. It would prevent anti-social behaviour and potentially water based accidents like tombstoning.”</p>	<p>Every licence application must be considered on its own merits. It is not possible for a blanket refusal of all applications to sell alcohol on or near to beaches, even if this was desired. All decisions must be made based on the four licensing objectives and the specific circumstances of the location and activities requested.</p> <p>The consumption of alcohol is not a licensable activity. A ban on alcohol consumption on a</p>	<p>No amendment to policy required.</p>

		specific beach could be considered through a Public Spaces Protection Order (PSPO), but only if there was evidence of anti-social behaviour at that location.	
Jean Tomlinson, Dartmouth	<p>“Re your request for comments on licensing policy for Dartmouth,</p> <p>1. Could marquees erected on the river front be removed as they have created bottlenecks where pedestrians are unable to distance themselves from others. Also create problems for the disabled?</p> <p>2. Could you remove catering kiosks from the gardens as they are an eyesore?</p> <p>3. Could restaurants and bars be requested to keep noise down in late evening? A restaurant in Lower St is causing late night noise (bottles being tipped into a bin and music) and disturbing nearby residents.”</p>	<p>These issues are very specific to Dartmouth and not a matter for the Licensing Policy.</p> <p>1. To erect marquees or any other structure on the South Embankment approval must be sought from Assets as it is SHDC owned land. Recent approval of marquees on this area of land has been to help businesses during the Coronavirus pandemic.</p> <p>2. The catering kiosks referred to are not licensed for the sale of alcohol. Use of the kiosks require permission from Dartmouth Town Council.</p> <p>3. Noise complaints are dealt with by Environmental Health in liaison with Licensing. Ms Tomlinson has been contacted for further information so that the noise complaint procedure can be followed.</p>	No amendment to policy required.
Ivybridge Town Council	<p>“The Council considered the policy at its meeting on Monday 14th September 2020 and gave its support to what it considered to be a very comprehensive policy.</p> <p>However, some concerns were raised under Licensing Hours regarding the</p>	<p>Paragraph 5.5.7 states: <i>The Licensing Authority recognises that fixed trading hours within a designated area can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale</i></p>	No amendment to policy required.

	<p>consideration of flexible hours within designated areas. Whilst it is clearly a solution to reducing friction at late night food outlets, taxi ranks etc., Council wondered whether customers of the earlier closing establishments would move on to those with later closing hours and also how the decision would be made for the closing times of individual licensed premises.”</p>	<p><i>of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other ‘flashpoints’ in areas where there have been incidents of disorder and disturbance.</i></p> <p>This statement is not suggesting ‘flexible hours within designated areas’, but rather that if hours are fixed within designated areas then it can cause ‘flashpoints’ at closing times, so flexible hours may be considered as a way of reducing this risk. However, every licence application must be judged on its merits based on the information provided and evidence available. Changes to premises’ hours may only be imposed through a licence application or through the review process.</p>	
Salcombe Town Council	<p>“Salcombe Town Council considered this policy consultation at their meeting last evening. They felt that this was a well written document and had no further comments to make.”</p>	<p>In support of the policy.</p>	<p>No amendment to policy required.</p>
Stokenham Parish Council	<p>“This was felt to be a well written and good document and thus Approved with no further comment.”</p>	<p>In support of the policy.</p>	<p>No amendment to policy required.</p>
Portman Group	<p>“We appreciate the reference to the Portman Group Code of Practice in the document guidance section. We know that several other authorities have included a brief description of the Portman Group Code of Practice and contact details in their</p>	<p>The Portman Group is the social responsibility body and regulator for alcohol labelling, packaging and promotion in the UK.</p>	<p>The ‘Portman Group Code of Practice’ is referred to at 2.4.1(iv) under Guidance available to the Licensing Authority when making licensing decisions.</p>

	<p>document annexes. If you were to consider such a text to encourage retailers in your area to abide by Retailer Alert Bulletins to remove irresponsible products and promotions, we might suggest including the following:</p> <p>The Portman Group Code of Practice The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the naming, packaging and promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or over. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important tool in protecting children and vulnerable consumers from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may particularly appeal to these groups..</p> <p>I would also highlight the latest edition of the Code of Practice, which was published last year and contains several new important updates including action to target offensive marketing and associations with illegal behaviour.</p> <p>I would also highlight the following technical points</p>		<p>To include a full description of the Portman Group here would require similar for all the guidance documents referred to. It is also preferred that specific contact details and links to documents are not included in the main policy document due to changes that may occur before it is next updated.</p> <p>It would be more helpful if the information regarding the Portman Group was included on our website and applicant guidance documents, rather than within the Licensing Policy itself.</p>
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<p>Jane Hughes, Totnes Cinema</p>	<p>“I have only just seen this link and so my response is a little rushed but I am keen to clarify the section which relates specifically to the exhibition of films.</p> <p>As the Director of Totnes Cinema CIC, responsible for the engagement of our local community I am passionate about developing a policy of inclusivity, and to encourage a wide range of people from our local community to share in the wonders of film. One of the areas we have been keen to develop has been to encourage parents to come, with their young infants (below the age of 1yrs and “in arms”) and enjoy the very best of the new releases. We only had a short window of opportunity this year as we restarted our parent and baby screenings again in January, with a new group of enthusiastic parents. Our screenings of Emma, and The Personal History of David Copperfield, for example, were very well attended and we had lots of sleeping babies and entertained parents.</p> <p>Our mission has always been to curate and offer the best cinema can offer to the wide ranging tastes of our community and between us we have</p>	<p>Section 3.8.15 is a new section about Film Classifications.</p> <p>The majority of films are classified by the designated body, the British Board of Film Classification (BBFC) and the mandatory condition under the Licensing Act 2003 says the admittance of children to film screenings must be in accordance with this recommendation. Para 3.8.20 gives some examples of occasions when the Licensing Authority may give its own recommendation. We have previously only done this where a film has not been classified by the BBFC, usually for local independent film makers.</p> <p>We also have the power to override a BBFC recommendation for a particular reason. We have never considered this before as we would usually follow the BBFC guidelines when classifying a film. However, as stated at 3.8.21 we would be open to the possibility of doing so for ‘parent and baby’ screenings if deemed appropriate. Further details and conditions</p>	<p>We have emailed Ms Hughes of Totnes Cinema for further information on other cinemas and authorities that have already got these types of arrangement in place.</p> <p>We have agreed with Ms Hughes that we would be happy to discuss her proposals further, but would need to look into the implications and risks as well as appropriate measures that would need to be put in place.</p> <p>We will obtain more information and feedback to the Licensing Committee at a future meeting.</p> <p>No amendment to policy required.</p>

	<p>over 30 years experiencing doing this. I am also a practicing child clinical psychologist with a special interest in early attachment relationships, and see the support of parents in these early months an essential mental health priority.</p> <p>We agree films need to be carefully chosen, that the lighting and sound are tailored to sensitive ears and eyes, and that the comfort of the parents and babies are paramount. We are lucky we have plenty of space for pushchairs and for parents to move around if they need to soothe their infants. We also have a large second toilet with baby changing facilities.</p> <p>We have built up relationships with local parents and have discussed the type of films they would like to see on these mornings. The response has been that as adults they would like to watch a range of films which are aimed at them, and not necessarily be restricted to an age classification for children i.e. U certificate or a PG.</p> <p>In line with most cinemas nationally we would be thoughtful and considerate of our selection and we would appreciate a conversation/consultation with yourselves as the local Authority to discuss this once and for all.</p> <p>At this time when we are constantly being reminded of the comfort and joy of personal interaction (by its enforced absence) we firmly believe that the opportunity to give new parents a safe and supportive environment to experience normal cultural and social interaction is invaluable to their mental and physical wellbeing."</p>	<p>would be required and a blanket allowance would not be possible.</p>	
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<p>Totnes Town Council</p>	<p>“In response to the public consultation on SHDC’s licensing policy, Totnes Town Council welcomes the strengthening of safeguards, particularly concerning the protection of young people, and the Council supports the strengthening of measures that protect residents from the anti-social behaviour problems that some licensing applications might potentially attract.”</p>	<p>In support of the policy.</p>	<p>No amendment to policy required.</p>
<p>Brixton Parish Council</p>	<p>“Further to the email received on 21st August - Licensing Act 2003 – Licensing Policy Consultation, Brixton Parish Council discussed this at their recent council meeting and make the following comments:</p> <ul style="list-style-type: none"> • This policy does not reflect the current and future situation regarding COVID -19 in our communities. There is no mention of COVID 19 in the introduction and the only significant reference to it is on pages 16/17. This paragraph on pages 16/17 needs to be included in the introduction. The policy needs to recognise in the introduction how COVID 19 is impacting on this sector and the community including the impact of continuous changing COVID 19 legislation and guidance for the sector and for the licensing authority. • Para 2.3.8 Public health there is no mention of COVID-19 • Para 2.4.28 ‘a dim view’ what does that mean policy statements need to be very clear and objective ... this is very subjective and open to interpretation. 	<p>The Statement of Licensing Policy is based upon the Licensing Act 2003 and its purpose is to give information and advice on how the Licensing Authority will make decisions on applications under this legislation as well as promote the four licensing objectives over the next five years.</p> <p>Whilst it is appreciated that the current Coronavirus pandemic is having a huge impact on local businesses and the licensed trade is particularly affected, these restrictions have been temporarily imposed by the Coronavirus Act 2020 and associated regulations. These are not enforced under Licensing Act 2003 and therefore specific details relating to COVID-19 have not been included.</p> <p>At 2.4.28 we have included reference to the Coronavirus Act 2020 as part of the section on related legislation. The regulations are changing on a daily basis, so anything more specific is likely to be incorrect or irrelevant by the time the policy is in effect. The Council has its own separate protocols and policies on</p>	<p>Amendment to 2.4.28 to include more specific information on how non-compliance with Coronavirus regulations will be dealt with.</p> <p><i>2.4.28 The Coronavirus Act 2020 and subsequent regulations were implemented in March 2020 as a response to the global pandemic. While in effect (at the time of writing this policy) these restrictions have far-reaching consequences on the operation of licensed premises and licensed events throughout the country. The Licensing Authority is committed to supporting licensed businesses at this difficult time to operate within the regulations. However, a dim view is taken of those licensed premises that do not comply and subsequently put their local communities at risk. Evidence of non-compliance with the Coronavirus legislation may be taken into consideration through a review of the premises licence and action can be taken, such as additional conditions, removal of the DPS or ultimately revocation of the licence. The Licensing Authority will work together with Environmental Health to promote the advice of</i></p>

	<ul style="list-style-type: none"> • Para 3.6.5 No mention of COVID 19 • Para 3.8.26 It is unclear who 'we' is in the paragraph. Is it all agencies?" 	<p>dealing with the pandemic which encompasses support for local businesses.</p> <p>Whilst there are no specific powers to deal with breaches of Coronavirus regulations under Licensing Act 2003, the 'dim view' would mean that non-compliance could be taken into consideration at a premises licence review and measures taken in relation to the licence.</p> <p>It is stated in the statutory section 182 guidance that the licensing objective of 'public safety' does not include 'public health'. Licensed events cannot be stopped due to the pandemic using Licensing Act 2003 legislation. Risk assessments for large events are required as a matter of course, as stated in para 3.6.5.</p> <p>Para 3.8.26 states: <i>Safeguarding children, young people and adults with care and support needs is everyone's responsibility and it is important that we all work together to ensure that we can all safely enjoy leisure, cultural and entertainment activities in our area.</i></p> <p>The 'we' in this paragraph encompasses the whole community, including all authorities, businesses and members of the wider public.</p>	<p><i>Public Health England during any contact with licensed businesses.</i></p>
<p>Louisa Daley, Community Safety Partnership</p>	<p>Para 2.4.8 – Remove reference to specific PSPO areas as these are due to be reviewed imminently and may soon be incorrect. Refer to website instead.</p>	<p>The Community Safety Partnership is one our main sources of advice on safeguarding. The proposed amendments are welcomed and will be incorporated into the policy.</p>	<p>Amendments 2.4.8 – A list of the current PSPOs can be found on the Council website.</p>

	<p>Para 3.8.27 – Include ‘vulnerable adults.’</p> <p>Para 3.8.31 – Include ‘human trafficking and modern slavery.’</p>		<p>3.8.27 – Safeguarding not only includes physical or sexual harm, but psychological, emotional and financial harm and neglect. Where there are risks to children’s and vulnerable adults’ well-being, every step should be taken to ensure their safety.</p> <p>3.8.31 – The Licensing Authority is working together with other agencies to help tackle issues surrounding safeguarding, particularly child sexual exploitation, human trafficking and modern slavery. Further information for operators and their employees on the types of issues to be aware of and good practice in relation to safeguarding is at Appendix F.</p>
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