

Review of Statement of Licensing Policy 2015 – 2019

EXECUTIVE MEMBERS: Councillors Gillian Troughton (Legal) and Hugh Branney (Town Centres, Community Safety, Children and Young People).

LEAD OFFICER: Clinton Boyce, Legal Services Manager.

REPORT AUTHOR: Clinton Boyce, Legal Services Manager.

Recommendation:

(a) That the draft statement of licensing policy 2015-2019, and prepared under section 5 of the Licensing Act 2003, be issued for consultation in accordance with section 5(3) of that Act; and

(b) A further report on the outcome of that consultation be made to the Licensing Committee meeting on the 30th March 2015.

1. INTRODUCTION

- 1.1 The Council, as licensing authority under the Licensing Act 2003, has a duty to determine its policy in respect of the exercise of its licensing function and to publish a statement of that policy. This policy must be reviewed every five years.
- 1.2 Council on the 12th October 2010 approved the last policy, such policy taking effect from the 7th January 2011. That policy expires on the 6th January 2016.
- 1.3 There have been numerous changes to licensing law since 2011. The Cumbria Constabulary have also requested that the Council adopts a cumulative impact policy for Whitehaven Town Centre. Taking these two matters into account it is timely to review the existing policy now.

2. NEW POLICY

- 2.1 Members will find at Appendix 1 to this report a new draft policy, which if approved by Council at its meeting on the 9th April 2015, will form the Council's policy for the period 2015-2019, unless reviewed earlier. Given the changes in

the law and the request for a cumulative impact policy a completely new policy has been drafted.

- 2.2 The most important change is the proposed introduction of a cumulative impact policy. Members will find at Appendix 2 to this report the request from the Cumbria Constabulary, dated the 6th November 2014, that such a policy be introduced. The request provides evidence of crime and disorder in Whitehaven Town Centre, that the current level of such is untenable and that the adoption of a policy 'is essential and will minimise the increased levels of violence and disorder by limiting the possible extension of licensing hours and the increase in the number of licensed premises'.
- 2.3 A cumulative impact policy is not referred to in the Licensing Act 2003 or other legislation. It is mentioned in the Home Office Guidance issued under section 182 of that Act. An extract of that Guidance is attached as Appendix 3 to this report for Members' information.
- 2.3 Section 6 of the draft policy (Appendix 1) deals with cumulative impact. It includes a map showing edged blue the area which will fall within the cumulative impact area. Within that area are areas shaded red, amber and green. The red area is where a high level of crime and disorder is experienced and new applications for and variations to licences will only be granted in the most exceptional circumstances. Applications for premises in the amber area will be permitted provided that the proposed operating schedule includes various steps for promoting the licensing objectives. Good quality applications within the green area are likely to be permitted. The boundaries between the red, amber and green areas will be reviewed annually by the Licensing Committee. Circumstances, not least, prevailing crime rates and regeneration aspirations, may change over the five year period, and require adjustment of the inner boundaries.
- 2.4 Sergeant John Farrer on behalf of Cumbria Police will attend the Committee's meeting to present Appendix 2 and answer any concerns or queries which Members may have.
- 2.5 The remainder of the proposed policy sets out the Council's approach to dealing with applications. It also highlights, at section 7, early morning restriction orders. This is relatively new and whilst there are no such orders in Copeland is a tool for dealing with crime and disorder should this become necessary.

3. TIMETABLE

- 3.1 Prior to a new policy being adopted it must be consulted on. Section 5 of the Act specifies a list of bodies which should be consulted and these are localised in

paragraph 1.2 of the draft policy. Members are asked to consider whether they wish to see any other bodies consulted.

- 3.2 Assuming Members approve the attached policy it will be issued for consultation during the period 9th February 2015 to the 20th March 2015. The Committee will then be required to consider those responses and make any amendments to the policy which it considers appropriate. The Committee will then make an appropriate recommendation to Council on the 9th April 2015 which should then approve and adopt the policy. The policy will then be published. In terms of taking effect there is no reason why it shouldn't take effect within a short time after the Council meeting.

4. RECOMMENDATIONS

It is recommended that (a) the draft statement of licensing policy 2015-2019, (attached as appendix 1) and prepared under section 5 of the Licensing Act 2003 be issued for consultation in accordance with section 5(3) of that Act; and (b) that a further report on the outcome of that consultation be made to the Licensing Committee meeting on the 30th March 2015 (10:00am).

5. STATUTORY OFFICER COMMENTS

- 5.1 Monitoring Officer Comments: As set out in this report.
- 5.2 S151 Officer Comment: No financial issues arise from the report.
- 5.3 EIA Comment:

The policy is designed to promote the four licensing objectives as set out in the policy. As such the beneficiaries of the policy are very broad across the communities that live, work and visit the Borough. The policy seeks to reinforce and develop measures to improve the safety of the public and minimise the risk of crimes against them, to mitigate the effects of regulated activities upon the communities in which the activities are held and to protect children from inappropriate activities. Children are accorded a special status in view of the licensing objective to protect children from harm. The policy also seeks to provide useful information to those who provide, or wish to provide, regulated activities and thereby assist them in understanding the policies we apply and to understand that each application will be treated equitably having regard to the Policy. There is no intention and no foreseeable impact of the policy to mean that disabled people or people with other protected characteristics as specified by the Equality Act 2010 would be treated more adversely as a consequence of the proposals in the policy.

5

.4 Policy Framework Comment: Relevant policies are referred to in section 2 of the report.

Appendix 1: Draft statement of Licensing Policy of Copeland Borough Council 2015-2019.

Appendix 2: Evidence in support of a special cumulative impact policy prepared by Cumbria Constabulary dated 6th November 2014.

Appendix 3: Extract (Chapter 13 – Statements of licensing policy) from the Home Office’s revised guidance issued under section 182 of the Licensing Act 2003.

List of Background Documents:

None, other than as contained in Appendix 2 above.

Consultees:

Cumbria Constabulary, Copeland Borough Council Environmental Services and Cumbria County Council Trading Standards in respect of chapter 6 of the draft policy.

**Appendix 1: Draft statement of Licensing Policy of Copeland
Borough Council 2015-2019**



Proud of our past. Energised for our future.

Statement of Licensing Policy of Copeland Borough Council 2015 – 2019

Licensing Act 2003

Further copies of this document can be obtained from:

Licensing Services
Copeland Borough Council
The Copeland Centre
Catherine Street
Whitehaven
Cumbria
CA24 3JD

Tel: 01946 598521

Fax: 01946 598311

Email: licensing@copeland.gov.uk

Web: <http://www.copelandbc.gov.uk/section/licensing>

Please note:

The information contained in this document can be made available in different languages and formats including Braille, large print and audio cassette.

Contents

	<u>Page number</u>
Executive summary	4
Section 1 The purpose and scope of the licensing policy	5
Section 2 Integrating other guidance, policies, objectives and strategies	8
Section 3 Promotion of the licensing objectives	9
Crime and disorder	9
Public safety	10
Public nuisance	11
Protection of children from harm	12
Section 4 General principles	14
Human rights	14
Impact of licensed activity	14
Special events in the open air or in temporary structures	15
Community applicants	16
Other regulatory regimes	16
Application process	17
Licensing Committee	17
Representations	17
Reasons for decisions	18
Section 5 Premises licences and club premises certificates	18
Planning	18
Licensing Hours	19
Local, national and international occasions	20
Drinking up time	20
Operating schedules	21
Risk assessments	22
Local licensing guidance	22
Consumption of alcohol	23
Conditions	24
Designated premises supervisor	24
Staff training	24
Club premises certificate	25
Community halls	25
Minor variations	25
Alcohol deliveries	25

Section 6	Cumulative impact policy	26
	Applications	26
	Cumulative impact policies	27
	Rebutting the presumption against grant in a CIP area	30
	Representations on cumulative impact outside cumulative Impact areas	31
Section 7	Early morning restrictions orders	31
	EMRO request	32
	Evidence	33
	Consultation	34
	Formal decision	34
Section 8	Personal licences	34
Section 9	Temporary event notices	36
Section 10	Enforcement and reviews	38
Appendix 1	Further reading and useful information	40

Executive Summary

The Licensing Act 2003 came into effect in 2005.

Under Section 5 of the Licensing Act 2003 the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every five years.

Any decision taken by the Council in regard to determination of licences, certificates and notifications should aim to promote the licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The policy covers the licensable activities as specified in the Act which are:

- Sale by retail or supply of alcohol
- Regulated entertainment
- Late night refreshment

The policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. Additionally the council has regard for a number of other local strategies such as the council's Corporate Plan, its Safeguarding Policy and the Cumbria Community Strategy.

The council has the ability to grant licences for premises and certificates for club premises. It also grants personal licences and accepts temporary event notices.

Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Where relevant the council consults with the responsible authorities as described in the Act.

Local people and Members of the council are able to have their say and their opinion heard through public consultation on this policy and by making representations about applications for premises licences or requesting reviews of licences for problem premises.

The policy includes a special policy which seeks to limit the cumulative effect of licensed premises in Whitehaven Town Centre.

Enforcement of the legislation is a requirement of the Act that is undertaken by the council. This policy describes the council's enforcement principles and the principles underpinning the right of review.

Section 1 The purpose and scope of the licensing policy

- 1.1 This policy is prepared under Section 5 of the Licensing Act 2003 and was approved by Copeland Borough Council as Licensing Authority on the [] 2015. It will be kept under review and as a minimum will be reviewed no later than 2019, with a new policy in place by [] 2019 unless statute changes. Unless otherwise stated any references to the council are to the Copeland Borough Council Licensing Authority.
- 1.2 In preparing this policy the council has consulted with and considered the views of a wide range of people and organisations including:
- Representatives of local business;
 - Local residents and their representatives;
 - Parish and town councils;
 - Local member of parliament;
 - Representatives of existing licence holders and registered clubs;
 - The Whitehaven Maritime Festival Company;
 - The Whitehaven Harbour Commissioners;
 - The British Beer and Pub Association;
 - Licensing solicitors;
 - Cumbria Police;
 - Cumbria Fire and Rescue Service;
 - Cumbria Health and Wellbeing Board and other bodies performing the duties of those specified in section 5(3)(ba) and (bb) of the Licensing Act 2003;
 - Copeland Borough Council – Environmental Services (environmental and health and safety);
 - Copeland Borough Council – Planning;
 - Cumbria County Council – Children and Young People Social Care;
 - Cumbria Local Safeguarding Children Board;
 - Director of Public Health;
 - Cumbria County Council Trading Standards;
 - Charitable organisations that deal with the social impact of alcohol misuse; and
 - Other charitable organisations as appropriate.
- 1.3 This policy also has regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 1.4 The council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives namely:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm

- 1.5 The council adopts the overall approach of encouraging the responsible promotion of licensed activities. However, in the interests of all its residents, it will not tolerate irresponsible licensed activity. Following relevant representations the council will refuse applications, restrict hours and activities or impose conditions where it is appropriate to do so to promote the licensing objectives and/or use effective enforcement to address premises where there are problems, in partnership with key agencies such as Cumbria Police, Cumbria Fire and Rescue Service, the Health and Safety Executive, Crime and Disorder Reduction Partnerships, Director of Public Health and Cumbria Trading Standards.
- 1.6 This policy is concerned with the regulation of licensable activities on licensed premises, by qualifying clubs and at temporary events. The conditions that the council attaches to the various licences will focus on matters that are relevant to the four licensing objectives and will centre upon the premises that are being used for licensable activities.
- 1.7 The council is aware however that the prevention of public nuisance is not narrowly defined in the Act and can include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other people living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 1.8 The council will monitor the effect of this policy throughout the period it covers through regular meetings with the responsible authorities.

Scope of the policy

- 1.9 This policy covers licensable activities within Copeland's district as defined by the Licensing Act 2003. These are:
 - The sale of alcohol
 - The supply of alcohol by or on behalf of a club, or to the order of a member of the club
 - The provision of regulated entertainment
 - The provision of late night refreshment
- 1.10 Advice on whether a licence is required for premises or an event can be obtained from Licensing, Copeland Borough Council.
- 1.11 Throughout this policy the wording will refer to 'applicants' for licences. However it should be noted that the principles set out within this policy apply equally to new applications, applications for variations and consideration of any request to review a licence.
- 1.12 The scheme of the Licensing Act is that applicants should make applications and assess what matters, if any, need to be included within the operating

schedule to address the licensing objectives. If an application is lawfully made and no relevant representations are received then the council must grant the application. Only if relevant representations are made will the council's discretion be engaged.

- 1.13 Applicants for premises licences should be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. This policy seeks to provide advice to applicants about the approach they should take to making applications and the view the council is likely to take on certain key issues where representations have been made.

Section 2 Integrating other guidance, policies, objectives and strategies

- 2.1 In preparing this licensing policy the council has had regard to, and sought to integrate the licensing policy with, the following guidance, policies and strategies:

- Safeguarding Policy Procedure– Children and Vulnerable Adults (September 2014);
- Copeland Corporate Plan 2013-2015;
- Local Plan 2013-2028: Core Strategy and Development Management Policies; and
- Copeland Borough Council – Environmental enforcement policies

- 2.2 The council (through its Licensing Committee) may, from time to time, receive reports on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in this policy and the overriding need to promote the four licensing objectives it may have regard to them when making licensing decisions.

- 2.3 The Committee may, after receiving such reports, make recommendations to the council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. Equally the Committee may make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy. This may include recommendations to amend the licensing policy itself.

Section 3 Promotion of the licensing objectives

- 3.1 The council will carry out its functions under the Licensing Act 2003 with a view to promoting four licensing objectives. These are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 3.2 Each objective is of equal importance, and the four objectives will be paramount considerations for the council at all times.
- 3.3 It is for the applicant to decide what, if any, measures to suggest in its operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.
- 3.4 The council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern.
- 3.5 Applicants are reminded that responsible authorities or other persons may make representations if they feel that the applicant's proposals do not adequately promote the licensing objectives. An applicant who proposes no measures to promote the licensing objectives may therefore face more representations than an applicant who risk assesses their operation and proposes necessary and proportionate measures.
- 3.6 The council recommends early consultation with responsible authorities. Some responsible authorities have produced guidance which applicants can take into account when assessing whether they need to include any measures in their application to promote the licensing objectives. In addition, many responsible authorities would be prepared to discuss matters on site with an applicant with a view to reaching agreement on measures to be proposed. Contact details for the responsible authorities are available from Licensing. Guidance issued by the responsible authorities can be found on the council's website or by contacting Licensing.

Crime and Disorder

- 3.7 Under the Crime and Disorder Act 1998, the council must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder.
- 3.8 Where its discretion is engaged, the council will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the its community safety strategy and any local crime reduction strategy.

- 3.9 There are many steps an applicant may take to prevent crime and disorder. The council will look to the Police for the main source of advice on these matters. In accordance with the Secretary of State's Guidance, police views on matters relating to crime and disorder will be given considerable weight.
- 3.10 If relevant representations are made in relation to a premises licence or club premises certificate, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.
- 3.11 Conditions will be targeted on deterrence and the prevention of crime and disorder. The council may consider:
- The need for and location of CCTV cameras
 - The need for door supervision
 - The need for a text or radio pager system allowing communication between premises and with the Police
 - Conditions setting capacity limits where this is necessary to prevent overcrowding likely to lead to disorder and violence
 - Membership of a recognised pub watch or similar scheme
- 3.12 Crime and disorder conditions will not seek to control adult entertainment involving striptease and lap dancing, which will be governed by laws in relation to indecency and obscenity, and will be licensed under the Local Government (Miscellaneous Provisions) Act 1982. However, conditions for such adult entertainment may be imposed for reasons of public safety, or the protection of children from harm if they relate to occasional use of the premises for adult entertainment.

Public Safety

- 3.13 The public safety objective is concerned with the physical state of people using the premises. Public safety includes safety of performers appearing at any premises.
- 3.14 On 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. The council will not seek to impose fire safety conditions as conditions on licences where the Order applies.
- 3.15 Capacity limits will only be imposed where appropriate for the promotion of public safety or for reasons of crime and disorder. Capacity limits will not be imposed as a condition of the licence on fire safety grounds.
- 3.16 Applicants are advised to consult with the Environmental Health, Health and Safety Team, who can offer advice as to appropriate measures to be included

in risk assessments, and potentially in operating schedules. On receipt of relevant representations the council will have regard to the views of the Health and Safety Team.

- 3.17 Conditions requiring possession of certificates on the safety or satisfactory nature of equipment or fixtures on premises will not normally be imposed as those are dealt with by other legislation. However, if it is considered necessary in light of the evidence on each individual case, conditions may be imposed requiring checks on the equipment to be conducted at specified intervals, and evidence of the checks to be retained. Conditions may also seek to require equipment of particular standards to be maintained on premises.
- 3.18 Special considerations will apply to night clubs and similar venues. Applicants are encouraged to consider the Safer Clubbing Guide published by the Home Office and DCMS, which gives advice on these issues.
- 3.19 Special events in the open air or temporary structures raise particular issues. Applicants are referred to other sections of this document where guidance on holding these types of event is given.

Public Nuisance

- 3.20 In considering the promotion of this licensing objective, applicants need to focus on the effect of licensable activities on persons living and working in the area around the premises which may be disproportionate and unreasonable.
- 3.21 Public nuisance in this context is not narrowly defined and can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the whole community.
- 3.22 Issues will mainly concern noise nuisance, light pollution, noxious smells and litter. These include issues arising from the implementation of the smoking ban where customers may now be more inclined to use external areas of premises.
- 3.23 Where applicants are completing operating schedules the council encourages them to have regard to the location of the proposed or actual premises, and in particular whether proposals may have a disproportionate impact in dense residential areas or near to sensitive premises such as nursing homes, old people's accommodation, hospitals, hospices or places of worship.
- 3.24 Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an operating schedule.
- 3.25 If relevant representations are made, the council will consider whether it is necessary to impose conditions to regulate behaviour on the premises and access to them where this relates to licensable activities, and the licensing objectives. Any conditions attached will not seek to manage the behaviour of

customers once they are beyond the direct management of the licence holder, their staff or agents, but may seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises. The council considers that patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licensee.

- 3.26 The council will consider whether issues relating to public nuisance can be effectively dealt with by necessary and appropriate conditions. These conditions will normally focus on the more sensitive periods, for example, noise from premises in the late evening or early morning when residents may be attempting to sleep.
- 3.27 When considering such matters, the council will have regard to representations made by Environmental Health Services, and by local residents.
- 3.28 The council may consider the following matters:
- Whether doors and windows will or can be kept closed after a particular time;
 - Whether other noise control measures such as acoustic curtains or other speaker mounts are required;
 - The fact that lighting outside the premises may help to prevent crime and disorder, but may give rise to light pollution for neighbours;
 - Signs placed at the exit to buildings can encourage patrons to be quiet until they leave the area, and to respect the rights of residents;
 - The size and location of smoking areas and any facilities provided may encourage patrons to use the external areas more extensively than for just smoking and returning to the inside of the premises;
 - Provision of litter bins in the vicinity of premises serving hot food after 11pm; and
 - Display of contact details or a direct telephone link to a private hire/taxi firm.
- 3.29 The council recognises that it is necessary to balance the rights of local residents businesses and others with those wishing to provide licensable activities, and those who wish to use such facilities.
- 3.30 Ultimately if it is necessary for the prevention of public nuisance where conditions do not adequately address the issues an application can be refused.

Protection of children from harm

- 3.31 The council recognises the Cumbria Local Safeguarding Children Board as a responsible authority for the protection of children from harm.
- 3.32 The protection of children from harm includes protection from physical and psychological harm.

- 3.33 The council notes that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed unless there is good reason to restrict entry or exclude children completely.
- 3.34 Issues about access of children to premises may give rise to concern:
- where adult entertainment is provided on an occasional basis and is not already licensed under other legislation;
 - where there have been convictions of the current management for serving alcohol to minors;
 - where the premises have a reputation for allowing under-age drinking; where requirements of proof of age is not the norm;
 - where premises have a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises; and
 - where the supply of alcohol consumption on the premises is the exclusive or primary purpose of the services provided.
- 3.35 Such situations can be identified through a risk assessment of the operation. In these circumstances, applicants are advised to consider offering appropriate conditions through their operating schedule. In addition, licensees may identify that the access of children to particular parts of the premises poses more risk than others, and seek only to exclude children from areas of highest risk.
- 3.36 On receipt of relevant representations, the council will consider whether conditions are necessary. If conditions are necessary these may include:
- limitations on the hours when children will be present;
 - limitation upon the presence of children of certain ages when specified activities are taking place;
 - limits on the parts of the premises to which children may have access;
 - age limitations;
 - limitations or exclusions only when certain activities are taking place;
 - requirements for an accompanying adult; and
 - full exclusion of people under the age of 18 when any licensable activities are taking place.
- 3.37 In such cases, representations by the Safeguarding Children Board and the Police will be given considerable weight where they address issues regarding the admission of children.
- 3.38 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. However, the council favours the Challenge 25/Check 25 type schemes and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the council determines the licence application.

- 3.39 No condition will be imposed by the council requiring the admission of children to any licensed premises except in the case of exhibition of film where a mandatory condition is applied to all licences with this activity.

Section 4 General principles

- 4.1 In determining a licensing application the overriding principle will be that each application will be determined on its own merit, having regard to the need to promote the four licensing objectives and taking into account this licensing policy and the guidance issued under Section 182 by the Secretary of State. Where it is necessary to depart from the guidance or this policy the council will give clear and cogent reasons for doing so.
- 4.2 Nothing in this policy will undermine any person's right to apply for a variety of permissions under the Act.
- 4.3 Applicants are reminded of the Government's Alcohol Strategy. Matters set out in the strategy may be relevant to general licensing principles and to one or more of the licensing objectives.

Human Rights

- 4.4 The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. The council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for his home and private life; and
 - Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

Impact of Licensed Activity

- 4.5 Where no representations are made the council will grant a licence subject to conditions consistent with the operating schedule.
- 4.6 When determining any application where relevant representations are made, the council will consider it in the light of the four licensing objectives and in order to support a number of other key aims and purposes as set out in this policy. The requirement to promote the licensing objectives will be the paramount consideration. The council will focus upon the impact of the activities taking place on members of the public living, working or engaged in normal activity near the premises.

4.7 Where relevant representations are made in relation to a premises licence, club premises certificate or temporary event notice the following factors will normally be taken into account when the council is looking at the impact of the activities concerned:

- the style of operation, the numbers of customers and customer profile likely to attend the premises;
- the location of the premises and the proximity of noise sensitive properties;
- the proposed hours of operation;
- the transport arrangements for customers attending or leaving the premises and any possible impact on local residents or businesses;
- any proposed methods for the dispersal of customers;
- the scope for mitigating any impact; and
- the extent to which the applicant has offered conditions to mitigate the impact how often the activity occurs.

4.8 In considering any application for a variation to a premises licence or club premises certificate where a relevant representation has been received, the council may take into account, in addition to the above matters, any evidence:

- of past demonstrable adverse impact from the activity especially on local residents or businesses; and
- that, if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

4.9 Other relevant matters may be considered as the individual case dictates.

Special Events in the Open Air or in Temporary Structures

4.10 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures like marquees etc. can provide opportunities for community involvement, civic pride and can attract visitors to the district.

4.11 However, the success of such events by way of contribution to the council's cultural and tourist strategies depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.

4.12 In recognition of the special factors that are relevant, particularly with respect to major open air events such as a pop festival or events like those provided by the Whitehaven Maritime Festival Company, the council has established a multi-agency forum to assist organisers in co-ordinating such events. This includes council departments who have an interest in or legislative role relevant to such events, together with representatives of the various emergency services.

- 4.13 Members of the forum are notified about all proposals to hold such events and where necessary special meetings will be organised in order to consider any issues that will require to be addressed and to open up lines of communication with organisers.
- 4.14 A useful document which organisers are recommended to obtain is 'The Event Safety Guide' (known as the purple guide), published by the Health & Safety Executive. This is currently being revised and organisers are advised to check online for the latest version.
- 4.15 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

Community Applicants

- 4.16 Whilst this policy is aimed at all licensable activities under the Licensing Act 2003 it should be noted that the council sees a distinction between large or permanent activities, such as those proposed by commercial operators and small or temporary activities such as those which might be proposed by cultural or community groups.
- 4.17 Where events are proposed by cultural or community groups, it is recognised that those groups may not have the same skill or expertise or access to professional advice. Such groups may seek assistance and guidance from the council by contacting Licensing.
- 4.18 Whatever the nature of the applicant and activity proposed, the overriding matter is that the council will consider the individual merits of the application and act so as to promote the licensing objectives.

Other Regulatory Regimes

- 4.19 The licensing policy is not intended to be the primary mechanism for the general control of nuisance, anti-social behaviour and environmental crime but nonetheless is a key aspect of such control and the licensing policy and licensing decisions are intended to be part of an holistic approach to the delivery of the council plan and the management of the evening and night time economy of the Copeland district.
- 4.20 In preparing this policy the council has sought to avoid unnecessary duplication of existing legislation and regulatory regimes. However on occasions it has been necessary to set out some of the detail in this policy for ease of understanding. Nothing in this policy is intended to revoke or replace the need for applicants to act in accordance with legal requirements. All applicants are advised to seek proper advice to ensure that the activities they propose are within the boundaries set by existing legislation and regulations.

Application Process

- 4.21 Applications must be made to the council in the form prescribed by Regulations. Guidance is available to applicants setting out the detail of the process.

Licensing Committee

- 4.22 The council has appointed a licensing committee of 12 Councillors. Licensing functions will often be delegated to a licensing subcommittee of 3 Councillors or, in appropriate cases to officers of the council.
- 4.23 Councillors will have regard to the Copeland Borough Council Code of Conduct for Members. Where a Councillor who is a member of the Licensing Committee or subcommittee has a disclosable pecuniary interest in the application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision making process in respect of that application.
- 4.24 A subcommittee may refer an application to another subcommittee or to the Licensing Committee where it is unable to deal with the application because of the number of members unable to vote on the matter in question.
- 4.25 The Licensing Committee will refer an application to the council where it is unable to deal with the application because of the number of members unable to vote on the matter in question.

Representations

- 4.26 Depending on the type of application representations may be made by a responsible authority or other persons (as defined by the Licensing Act 2003).
- 4.27 Members of the public who wish to submit a representation in regards to a premises licence or club premises certificate application need to be aware that their personal details will be made available to the applicant. If this is an issue they may contact a local representative such as a ward, parish or town councillor or any other locally recognised body such as a residents association about submitting the representation on their behalf. The council is not able to accept anonymous representations. In addition the council cannot accept petitions which do not follow the guidance on the council's website.
- 4.28 Where a representation is received which is not from a responsible authority the council will in the first instance make a judgement on whether it is relevant, i.e. based upon one or more of the four licensing objectives.
- 4.29 'Relevant representations' are representations:
- about the likely effect of the premises licence on the promotion of the licensing objectives; and

- which have not been withdrawn and are not, in the opinion of the council, frivolous or vexatious.
- 4.30 Where relevant representations are received about an application the council will hold a hearing to consider them unless the council, the applicant and everyone who has made representations agree that the hearing is not necessary. Applicants and those making representations should seek, in advance of any hearing, to try to reach agreement or to narrow the areas in dispute, particularly where both are professionally represented.
- 4.31 Where hearings are required as a result of relevant representations, the council may extend the time limits involved in calling hearings in order to allow the parties to negotiate suitable conditions to be added to the operating schedule and avoid the need for a hearing. Such an extension of time is considered to be in the public interest.

Reasons for Decisions

- 4.32 Every decision made by the Licensing Committee, subcommittee or officers shall be accompanied by clear reasons for the decision.

Section 5 Premises licences and club premises certificates

- 5.1 A premises licence and club premises certificates authorises the sale or supply of alcohol, regulated entertainment and late night refreshment (sale of hot food and drink after 11pm). Businesses wishing to apply for a licence or certificate must use the prescribed form which includes details of the hours of operation, any hours for licensable activities and an operating schedule.

Planning

- 5.2 The use of premises for the sale or provision of alcohol, regulated entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.
- 5.3 In line with the section 182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 5.4 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, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

- 5.5 Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct. It will take into account what the impact of granting the application will be on the four licensing objectives.
- 5.6 In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights. Failure to do so may result in representations and the licence being refused or granted subject to conditions which take account of the planning permissions in existence.
- 5.7 In addition, all new developments and premises which have been subject to structural alterations since 1994 will have building control approval in the form of a Building Regulations Completion Certificate. The onus will be on the applicant to demonstrate that any structural alterations have been approved by building control. Failure to do so may result in representations and the licence being refused or granted subject to conditions.

Licensing Hours

- 5.8 The government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The Act gives the Council the power to make decisions regarding licensed opening hours based on local knowledge and in consultation with other responsible authorities.
- 5.9 In some circumstances, staggered licensing hours with regards to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is reduced. The intention behind this is to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which currently lead to disorder and disturbance.
- 5.10 Providing the customers with greater choice is an important consideration in the development of a thriving and safe evening and night-time economy in Copeland. However any licensable activity has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. Customers may be noisy when leaving, leave litter or use on-street car parking. The impact of these activities can be particularly intrusive at night when ambient noise levels are much lower.
- 5.11 The council supports the development of a wide ranging and culturally diverse night-time economy where this can be achieved whilst promoting the four licensing objectives and without compromising the ability to resource local services associated with the night-time economy such as street cleansing.
- 5.12 Under the Act there are no permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedule the hours they wish to open and to apply to vary their existing licences if they wish to open beyond their

current permitted hours. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be the paramount consideration at all times.

- 5.13 If relevant representations are made the council will only grant the hours of use proposed where the operating schedule and any risk assessment adequately demonstrates that:
- the applicant has properly considered what is appropriate for the local area when considering what hours and activities to apply for;
 - the potential effect on the licensing objectives is not significant; and
 - the agreed operating schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on local residents and businesses.

5.14 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.

5.15 As a general rule shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

Local, national and international occasions

5.16 It should be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year, for example bank holidays, and to incorporate appropriate opening hours for these occasions in their operating schedules.

5.17 Additional occasions for which extensions may be required may be covered by a Temporary Event Notice.

Drinking up time

5.18 The traditional 'drinking up time' was not carried over into the Licensing Act 2003. However the hours during which applicants are licensed to sell or supply alcohol and the opening hours need not be identical and therefore applicants of premises licensed for the on-sale of alcohol are recommended to consider a drinking up/cooling down period during which music volume may be reduced, customers may consume their drinks and make arrangements for transport from the premises. The council considers that a 30 minute drinking

up time will assist in the gradual dispersal of customers and consequently reduce impact on the area.

- 5.19 Where relevant representations are made the council will consider imposing a condition on drinking up time where such a condition is appropriate in order to promote the licensing objectives in any individual case.

Operating Schedules

- 5.20 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule'. Applicants are expected to have regard to the council's Statement of Licensing Policy. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.
- 5.21 Operating schedules are the key to ensuring that the four licensing objectives are promoted. An operating schedule should include enough information to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 5.22 Whilst applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The council encourages co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 5.23 Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website and crime statistics;
 - Neighbourhood Statistics websites;
 - websites or publications by local responsible authorities;
 - websites or publications by local voluntary schemes and initiatives; and
 - on-line mapping tools.
- 5.24 Applicants should make their own enquiries and demonstrate how they have considered the following in their operating schedule:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young persons may congregate;
 - Any risk posed to the local area by the applicants' proposed licensable activities; and
 - Any local initiatives (for example, local crime reduction initiatives or voluntary schemes such as local taxi-marshalling schemes, street pastors and other schemes), which may help mitigate potential risks.

- 5.25 The council expects individual applicants to complete the operating schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on rather than in general or standard terms. Information should be given to demonstrate how the individual application proposes to address and promote the licensing objectives. Applicants are referred to paragraphs 5.27 to 5.31 below which contain information on carrying out a risk assessment.
- 5.26 Any application or operating schedule not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by council.

Risk assessments

- 5.27 The council recommends that applicants complete a risk assessment of their business in order to understand what steps are required to complete the operating schedule in a manner which enables the council and responsible authorities to assess how they will seek to promote the licensing objectives.
- 5.28 The council is aware that any risk assessment will vary according to the nature of the business. It is for applicants to decide what is appropriate in each case. A special risk assessment proforma designed for outdoor events and broadly based on the 'Purple Guide' is also available.
- 5.29 The risk assessment contains many of the key factors which the responsible authorities will be expecting applicants to meet in order to fulfil the licensing objectives. The contents are not exhaustive but the risk assessment approach will reduce the possibilities of adverse representations.
- 5.30 It is recognised that some areas of the risk assessment may duplicate issues which applicants have previously addressed in order to satisfy other legislation. Where this does occur the operating schedule may cross reference to alternative documents.
- 5.31 The council recognises that it cannot insist on a risk assessment. However an applicant who decides not to complete or provide a risk assessment may face additional representations and the expense of hearings as a result. If a risk assessment is not completed then applicants will need to demonstrate how these matters have been addressed through the operating schedule provided.

Local Licensing Guidance

- 5.32 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete the operating schedule, the council will publish local licensing guidance.
- 5.33 The local licensing guidance should be given careful consideration when making an application. Applicants may be asked to attend a meeting with

licensing officers to discuss the measures suggested in the guidance and how they might be relevant to their application. The Local Licensing Guidance will be presented to any subsequent Licensing subcommittee when they determine an application that has received representations.

- 5.34 The council recognises that it cannot insist on applicants using the local licensing guidance when completing their operating schedules. However an applicant who decides to disregard the guidance may face additional representations and the expense of a hearing as a result.

Consumption of Alcohol

- 5.35 The council is acutely aware of the link between the supply of alcohol that is subject to certain promotions and the possibility of resultant incidents of alcohol related crime and disorder and implications for public safety, public nuisance and the risk of harm to children.
- 5.36 The council also recognises the impact that excessive or binge drinking can have on public health and that positive action on promoting the licensing objectives is equally likely to have an indirect impact on public health.
- 5.37 The British Beer and Pub Association states that a promotion is irresponsible where it encourages or incites individuals to drink to excess, behave in an anti-social manner or fuels drunkenness. The council as the licensing authority will use the powers contained within the Licensing Act to ensure operators' promotional activities do not undermine the licensing objectives.
- 5.38 In April 2010 new mandatory conditions came into effect which:
- Ban irresponsible promotions;
 - Ban the dispensing of alcohol directly into the mouth; and
 - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- 5.39 The legislation makes it clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carried a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children".
- 5.40 As a consequence any on-trade premises that participates in irresponsible drinks promotions will be breaching licence conditions and will be dealt with in accordance with the council's relevant enforcement protocol which is available from the council's website and may be subject to a review of their licence.

Conditions

- 5.41 The council may only impose conditions where relevant representations are made following an application to grant or vary a licence or where a review request is being considered.
- 5.42 The council recognises that the only conditions that should be imposed on a licence are those which are appropriate and proportionate to the promotion of the licensing objectives. There may be circumstances where existing legislation and regulations already effectively promote the licensing objectives and no additional conditions are required.
- 5.43 Where conditions are imposed they will be tailored to the individual style and characteristics of the premises and events concerned.
- 5.44 Applicants are strongly encouraged to make early contact with the appropriate responsible authorities to discuss proposed conditions in advance of the submission of their application to the council.

Designated Premises Supervisor

- 5.45 An applicant for a premises licence which includes the sale and supply of alcohol must nominate a Designated Premises Supervisor (DPS). That person will normally have been given day to day responsibility for running the premises. The DPS will also be in possession of a personal licence. The Act does not require the presence of the DPS at all material times.
- 5.46 The DPS will be readily identifiable on the premises as a person in a position of authority. No sale or supply of alcohol may be made at a time when no DPS has been specified on the licence or at a time when the DPS does not hold a Personal Licence.

Staff Training

- 5.47 The council recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training programmes to raise awareness of their responsibility and particularly of the offences contained within the Act. Similarly persons employed at on-licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises.
- 5.48 It is also recommended that persons employed on premises providing entertainment for children and youths attend training programmes in basic child protection and safety, and if appropriate have the necessary DBS checks.

- 5.49 All persons employed on licensed premises should be provided with in-house training on basic public safety and the housekeeping arrangements relative to those premises.

Club Premises Certificate

- 5.50 The Act recognises that premises to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason qualifying clubs may apply for a Club Premises Certificate as an alternative to a premises licence.
- 5.51 A Designated Premises Supervisor and Personal Licence Holders are not required where a Club Premises Certificate is in force. However, an applicant for a Club Premises Certificate is still required to act in a manner which promotes the licensing objectives. An application for a Club Premises Certificate must be in the form prescribed by regulations.
- 5.52 Any qualifying club may choose to obtain a Premises Licence if it decides that it wishes to offer its facilities commercially for use by the public, including the sale of alcohol. Any individual on behalf of the club may also provide Temporary Events Notices.

Community Halls

- 5.53 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 amends the Licensing Act 2003 to allow management committees of community premises to make an application for a premises licence or to vary an existing premises licence which includes an application to remove the requirement of a designated premises supervisor and the authorisation of the sale of alcohol by a personal licence holder.

Minor Variations

- 5.54 It is now possible to make small changes to premises licences or club premises certificates through the minor variation process, which is cheaper, easier and quicker than the full variation process. The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives.

Alcohol Deliveries

- 5.55 An applicant seeking a licence that will enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- The person they are selling alcohol to is over the age of 18;
 - That alcohol is only delivered to a person over the age of 18;
 - That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained

- (with times and signatures) and available for inspection by an authorised officer; and
- The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

Section 6 Cumulative impact policy

- 6.1 Cumulative impact means the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area.
- 6.2 The licensing policy is not the only means of addressing such problems. Other controls include:
- planning controls;
 - CCTV;
 - provision of transport facilities including taxi ranks;
 - Designated Public Places Orders;
 - police powers;
 - closure powers;
 - positive measures to create safer, cleaner and greener spaces; and
 - Voluntary or best practice schemes such as Street Wardens or Taxi Marshals.
- 6.3 The Council encourages the development of a variety of premises providing a range of licensed activities catering for a wide range of users. Any policy adopted from time to time on the cumulative impact of licensed premises imposes restrictions only to the extent that they are justified by the available evidence having regard to the guidance issued by the Secretary of State.

Applications

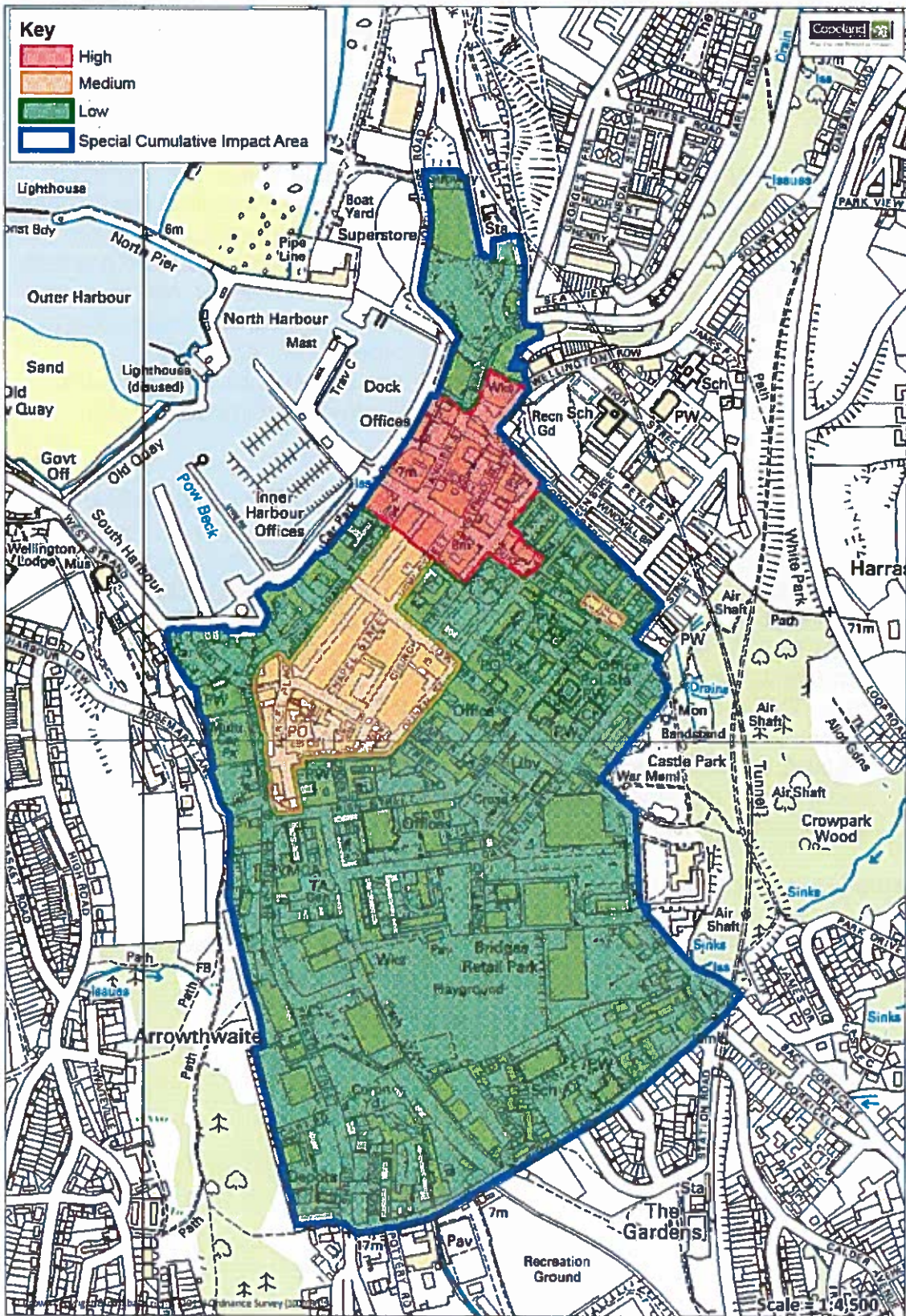
- 6.4 A cumulative impact policy creates a rebuttable presumption that applications within the designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.
- 6.5 An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.
- 6.6 To assist this process applicants are encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on

the applicant to demonstrate to the responsible authorities the suitability and detail for their site. The applicant is encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have particular regard to the guidance issued by the Home Office under section 182 of the Act.

- 6.7 Despite the presumption against grant, responsible authorities and other persons will still need to make a relevant representation before the Council may lawfully consider giving effect to its cumulative impact policy. If no representations are received then the application must, by law, be granted. The licensing authority, in its role as a responsible authority, and in consultation with the relevant ward members, may make a representation to any application received in a cumulative impact area. Any other representations, from responsible authorities and members of the public, which are based on the negative effects of cumulative impact will stand in their own right.
- 6.8 The Council recognises that a cumulative impact policy should not be absolute. The circumstances of each application will be considered properly and application for licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted. After receiving representations in relation to a new application or for a variation of a licence, the licensing authority will consider whether it would be justified in departing from its cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the Council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

Cumulative Impact Policies

- 6.9 The Council has applied a cumulative impact policy in respect of Whitehaven Town Centre as shown edged blue on the following plan:



- 6.10 This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in these areas continue to adversely affect the promotion of the following licensing objectives:
- prevention of crime and disorder; and
 - the prevention of public nuisance.
- 6.11 A summary of the evidence of the problems being experienced in this area is contained in paragraph 6.15 below. A full report may be accessed via the Council's website or from Licensing.
- 6.12 The Council consulted on the draft policies as part of the wider consultation on the Council's revised draft statement of licensing policy. The consultation was carried out with:
- The responsible authorities;
 - Licensees and those representing licensees;
 - Local residents and businesses; and
 - Those representing local residents and businesses.
- 6.13 The Council is also aware that the police have concerns relating to the concentration of premises in the Whitehaven Town Centre. The Council, in conjunction with the responsible authorities, will be keeping these areas under review during the life of the policy. Applicants wishing to apply for new licences or variations in these areas should note this paragraph and tailor their operating schedules accordingly.
- 6.14 The Council will keep the cumulative impact area under annual review. Applicants should contact Licensing to ensure they are in possession of the latest information before making their application.
- 6.15 Cumbria Constabulary have provided information that the nature of the Whitehaven Town Centre is such that the problem areas and cumulative impact is directly related to the style of businesses opening in that area and their clientele. In addition the close proximity of a number of venues on one street or close adjacent streets can result in difficulties in identifying individual premises as causing problems which can be dealt with via an action plan or a review process.
- 6.16 As a consequence the closure or opening of businesses can have a dramatic effect on reported crime and reported incidents in an area. While individual premises are dealt with using the review process, there are areas in Whitehaven Town Centre which may temporarily become saturated as new businesses open or existing businesses change their style of operation. This is particularly noticeable in the Tangier Street and Duke Street areas of the Town Centre.

- 6.17 This dynamic nature has created difficulties in setting a policy for the Town Centre that will be relevant for five years until the next formal review. Therefore the Council will adopt an approach of designating areas within the town centre CIP as 'red' or 'amber' based upon an analysis of night time economy related issues that are relevant to the licensing objectives. Areas that are considered highly saturated will be designated as red areas.
- 6.18 The Council will seek to refuse all applications in these red areas on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or extending their hours no matter how impressive the concept or application is. The Council will only grant applications in the red zone in exceptional cases.
- 6.19 An amber area is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives, and the Council will expect applicants to offer additional measures tailored to the problems in that area.
- 6.20 All other areas within the town centre CIP will be designated green areas where good quality applications will be generally be more acceptable even though the area is a CIP area.
- 6.21 It is the Council's policy, on receipt of relevant representations, to
- refuse new and variation applications in the red area unless exceptional circumstances exists;
 - to seek additional measures for new and variation applications in the amber area; and
 - To seek good quality applications for application in the green area.
- 6.22 This section applies to alcohol led premises such as bars, pubs and nightclubs, for premises seeking late night refreshment such as takeaways and late opening restaurants and for premises holding regulated entertainment .

Rebutting the presumption against grant in a CIP area

- 6.23 When considering whether the presumption against grant in a CIP area the Council will need to be satisfied that the grant will not impact on the cumulative impact of existing licensed premises in the area. Applicants will often suggest measures which they assert will demonstrate there will be no impact.
- 6.24 Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:
- Small premises who intend to operate before midnight;
 - Premises which are not alcohol led and only operate during the day time economy;

- Instances where the applicant is relocating their business to a new premises but retaining the same style of business provided that the relocation is within the same coloured area or to a less impact area, for example red to amber or amber to green; and
 - Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.
- 6.25 Examples of factors the licensing authority will not consider as meeting the standard of rebuttal include:
- That the premises will be well managed and run as all licensed premises should meet this standard;
 - That the premises will be constructed to a high standard; and
 - That the applicant operates similar premises elsewhere, such as in another licensing authority area, without complaint.
- 6.26 Any relevant representation of support will be taken into consideration by the Council when making its determination.

Representations on cumulative impact outside cumulative impact areas

- 6.27 In cases where either responsible authorities or other persons seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact in an area not designated as a saturation zone, which would undermine one or more of the licensing objectives, they shall:
- Identify the boundaries of the area from which it is alleged problems are arising;
 - Identify the licensing objective which it is alleged will be undermined;
 - Identify the type of licensable activity alleged to be causing the problem (e.g. sale of alcohol, late night refreshment);
 - Provide full details and evidence to show the manner and extent to which it is alleged that the licensing objectives are being, or at risk of being, undermined in the area; and
 - Provide evidence to show that the undermining of the objective is caused by the patrons of licensed premises in the area.
- 6.28 The reason for this is to ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the licensing subcommittee to reach a decision.

Section 7 Early morning restriction orders ('EMRO')

- 7.1 The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in sections 172A to 172E of the Licensing Act 2003. This power was brought into force on 31st October 2012 and the government has provided guidance as part of the S182 Guidance to Licensing Authorities.

- 7.2 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 7.3 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
- 7.4 It is the council's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However where this has deemed to fail then an EMRO could be considered as a possible solution.
- 7.5 An EMRO:
- Applies to the supply of alcohol authorised by premises licences, club premises certificate and temporary event notices;
 - Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods on different days of the week;
 - Applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
 - Applies to the whole or any part of the licensing authority's area;
 - Will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
 - Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service; and
 - Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Licensing Act 2003.

EMRO Request

- 7.6 It is expected that the need for an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate from the Cumbria Police, Health and Environmental Services or residents association. It may come via the Responsible Authorities Partnership which is a group of partner agencies who meet regularly to discuss issues relating to the sale of alcohol and the provision of entertainment. It is likely that more than one organisation may be involved in the process.
- 7.7 It is anticipated that the request would be referred to Licensing where a designated procedure will be applied to determine if an EMRO is appropriate. If appropriate, the request would be referred to the Licensing Committee. Members would be supplied with evidence of the issues being experienced in the area in support of the EMRO. The Licensing Committee will decide if, on the strength of the evidence provided, that an EMRO is appropriate for the promotion of the licensing objectives and if further work is to be undertaken to

support the case. Members may decide that other measures would be more effective in dealing with the problems, or that licence holders should engage with the authorities in an attempt to rectify matters before the request is considered further.

Evidence

7.8 The Section 182 Guidance to Licensing Authorities states that "The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premise licences. The licensing authority should consider the evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine when an EMRO would be appropriate for the promotion of the licensing objectives."

7.9 The level of evidence Licensing Committee will consider to support an early morning restriction order is:

- Police evidence of reported alcohol related crime;
- Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance;
- Data gathered from complaints made the Licensing on matters which affect the licensing objectives;
- Anecdotal evidence from residents organisations, ward members and other representatives of people living in a specific area; and
- Evidence obtained during the public consultation and associated public meetings/

7.10 In addition the section182 guidance suggests other sources of evidence such as:

- Health related statistics such as alcohol-related emergency attendances and hospital admissions.

7.11 This should, in part be provided by the organisation or group who are proposing an EMRO should be in force.

7.12 Once the Licensing Committee is satisfied that an EMRO is required to address the issues in an area, and all other measures have been tried and failed to address these issues, the formal process of implementing an EMRO will begin. The design of the EMRO will include:

- The days (and periods on those days) on which the EMRO would apply;
- The area to which the EMRO would apply;
- The period for which the EMRO would apply;
- The date from which the proposed EMRO would apply.

Consultation

- 7.13 The proposed EMRO will be advertised for at least 42 days. The proposal will be published on the council's website and in a local newspaper. A notice will be sent to all affected people in the area who hold a premises licence or club premises certificate, or people who use TENs or who hold a provisional statement. A notice will be displayed in the area, and sent to responsible authorities and adjacent licensing authorities.
- 7.14 Anyone affected by the EMRO has 42 days in which to make a representation on any aspect of the EMRO design. If relevant representations are received then a hearing will be held to consider them. If there are a number of representations, the licensing authority may consider whether to hold the hearing over several days. The hearing will be commenced within 30 working days of the end of the notice period.
- 7.15 As a result of the hearing the licensing authority has three options:
- To decide that the proposed EMRO is appropriate for promotion of the licensing objectives;
 - To decide that the proposed EMRO is not appropriate and therefore the process should be ended; and
 - To decide that the proposed EMRO should be modified. In this case it may be necessary to advertise again.

Formal Decision

- 7.16 Once the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination will be put to full Council for its final decision. Once the EMRO is made, the authority will send a notice to all affected persons and make it available for 28 days on the website.
- 7.17 A variation or a revocation of an order will follow the same process. However an order could be applied for a specified time and in this case the order ceases to apply on the final day.
- 7.18 Once an EMRO is in place, the licensing authority will update this policy as soon as possible to include reference to the EMRO in this section.
- 7.19 There are currently no EMROs in place in this area.

Section 8 Personal licences

- 8.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of a Personal Licence holder at all material times but if any sales are made when a Personal Licence Holder is not present, then they

must have been authorised by somebody who holds a Personal Licence. Regardless of whether a Personal Licence holder is present or not he will not be able to escape responsibility for the actions of those he authorises to make such sales.

- 8.2 The council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear what their legal responsibilities are. Any premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. This paragraph should be read in conjunction with paragraphs 10.7 to 10.9 on the role of the 'Designated Premises Supervisor'.
- 8.3 The council recognises it has no discretion regarding the granting of personal licences where
- the applicant is 18 or over;
 - possesses a licensing qualification,
 - has not had a licence forfeited in the last five years and
 - has not been convicted of a relevant offence.
- 8.4 An application for a personal licence to sell alcohol must be made in the form specified in government guidance or regulations. The application form must be accompanied by the requisite fee. The applicant should also be able to produce evidence of the relevant qualifications.
- 8.5 Applicants should produce a Disclosure and Barring Service certificate along with the application form. The certificate must be current and comply with the regulations on personal licence applications. Applicants are also expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or a similar offence.
- 8.6 Where the application discloses relevant unspent convictions the council will notify the police of that application and the convictions. The police may make objection on the grounds of crime and disorder. If an objection is lodged a hearing must be held.
- 8.7 The council will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The council will normally refuse the application unless there are exceptional and compelling circumstances which justify granting it.

Section 9 Temporary event notices

- 9.1 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on (the "premises user") gives notice to the licensing authority of the event (a "temporary event notice" or "TEN").
- 9.2 Temporary event notices are subject to various limitations. These are concerned with:
- the number of times a premises user may give a TEN – 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
 - the number of times a TEN may be given for any particular premises (12 times in a calendar year);
 - the maximum duration of an event authorised by a TEN is 168 hours (seven days);
 - the maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
 - the maximum number of people attending at any one time (fewer than 500); and
 - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 9.3 The most important aspect of the system of temporary event notices is that no permission is required for these events from the council. In general, only the police or Environmental Health may intervene to prevent such an event or modify the arrangements for such an event. The council will only intervene itself if the limits on the number of notices that may be given in various circumstances would be exceeded.
- 9.4 Many premises users giving temporary event notices will not have a commercial background or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, all of which may stage public events to raise funds, at which licensable activities will take place. The council will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for such groups.
- 9.5 There are two types of TEN; a standard TEN and a late TEN. These have different notice periods. A standard TEN is given no later than ten working days before the event to which it relates; a late TEN is given not before nine and not later than five working days before the event.

- 9.6 The council encourages notice providers to give the earliest possible notice of events likely to take place. This is particularly relevant to events which are to take place in the open air or in a temporary structure. Assistance with the planning of events can be provided through multi agency forum meetings.
- 9.7 The council will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution, the building of temporary structures, or other necessary permissions, and of the powers to close down events with no notice on grounds of disorder, the likelihood of disorder or noise emanating from the premises.

Police or Environmental Services intervention

- 9.8 The Act provides that in exceptional circumstances, the police or Environmental Services may issue an objection notice because they believe the event would undermine the one or more of the four licensing objectives set out in the Act. The police or Environmental Services must issue an objection notice within three working days of being notified, but they can subsequently withdraw the notice. The issuing of such an objection notice requires the consideration of the objection by the council at a hearing in the case of a standard TEN. If an objection notice is issued in relation to a late TEN then the TEN is cancelled and licensable activities are not authorised.
- 9.9 The ability of police and Environmental Services to serve such a notice is a further reason why event organisers are strongly encouraged by the council not to rely on giving the minimum amount of notice and to contact the local police and Environmental Services at the earliest possible opportunity about their proposals.

Additional limitations

- 9.10 The council, on receiving temporary event notices, will also check that the requirements of the Act as to duration and numbers of notices are met. For these purposes, a notice is treated as being from the same premises user if an associate gives it.
- 9.11 The Act defines an associate as being:
- the spouse or civil partner of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person; or
 - an agent or employee of that person;
 - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 9.12 A person living with another person as his or her husband or wife is treated for these purposes as his or her spouse.

Section 10 Enforcement and reviews

- 10.1 The Licensing Act contains measures to ensure that the council, and responsible authorities, are able to deal with premises that wilfully and persistently undermine the licensing objectives. The council and responsible authorities are committed to encouraging a thriving day time and evening licensed economy but will not tolerate those premises whose activities infringe upon the quality of life for local residents and businesses.
- 10.2 The licensing authority attends regular meetings with responsible authorities. The minutes of such meetings are private and confidential. The purpose of these meetings will be to discuss problem premises, problem areas and to share information about any new initiatives or schemes. The minutes from these meetings will be kept on file and will be used to inform any reviews or amendments of this Statement of Licensing Policy.
- 10.3 In the event of the licensing authority receiving evidence of an offence under the Licensing Act 2003 it will consider what action should be taken. This might involve informal action (advice and warnings), the issue of a caution or, if permitted, a fixed penalty notice, or prosecution. What action is taken will depend on the circumstances of each case and take into account the seriousness of the matter and past history. The purpose of enforcement is to protect the public, interested parties and the environment from harm caused as a result of activities made licensable by virtue of the Licensing Act 2003. Formal action by way of prosecution will be a last resort and proportionate to the degree of risk. To this end the key principles of consistency, transparency and proportionality will be maintained.

Reviews of Licences

- 10.4 The council recognises that the ability of the police, other responsible authorities and other persons to apply for a review of a premises licence, is an incentive to effective self-regulation.
- 10.5 On receipt of a relevant request to carry out a review the council has a range of options available to it under the Act. These include:
- To modify the conditions of the licence including imposing new conditions, altering existing conditions or removing conditions (permanently or temporarily);
 - To exclude a licensable activity from the scope of the licence (permanently or temporarily);
 - To remove the Designated Premises Supervisor;
 - To suspend the licence for a period not exceeding three months; or
 - To revoke the licence.
- 10.6 The council will seek to establish the cause or causes of the concern and remedial action will be targeted at such causes. Any action will be proportionate to the problems involved.

- 10.7 Where a Magistrates Court makes a Closure Order under part 8 of the Licensing Act 2003 (on grounds of disorder) the council must carry out a review of the licence.
- 10.8 Where a Magistrates Court makes a Closure Order under part 1 of the Anti- Social Behaviour Act 2003 (on grounds of the use, supply or production of Class A drugs associated with disorder or serious nuisance) the police will usually ask the council to carry out a review of the licence.
- 10.9 Where a closure order has been made under part 6 of the Anti-Social Behaviour Act 2003 (on grounds of noise) the council's Environmental Health section will normally request a review of the licence.

Matters to be considered

- 10.10 When considering a review request or the possibility of enforcement action the council will take into account all relevant circumstances but will view the following matters particularly seriously:
- use of the premises for criminal activities such as the supply of drugs or money laundering;
 - failure to promptly respond to a warning properly given by a responsible authority;
 - failure to engage with the responsible authorities in an effective manner;
 - previous convictions for licensing offences; and
 - previous failure to comply with licence conditions.

The Violent Crime Reduction Act 2006

- 10.11 The Violent Crime Reduction Act 2006 has amended parts of the Licensing Act 2003 and now expands police and council powers to deal with problem premises in a more expedient manner.
- 10.12 A new power to carry out summary reviews in serious cases of crime and disorder is brought in at section 53A of the Licensing Act 2003. Where a review application is accompanied by a certificate issued by a senior police officer, the Licensing Authority is required within 48 hours to consider whether it is necessary to take any interim steps pending the completion of the review process. This may include the immediate suspension of the premises licence.

Appendix 1 Further reading and useful information

- The Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003 available on the DCMS Website at www.culture.gov.uk
- The Event Safety Guide – A guide to health safety and welfare at music and similar events (HSE 1999) (“The Purple Guide”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997)(“The Green Guide ”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through www.streetartsnetwork.org
- The Portman group website at www.portman-group.org.uk
- The British Beer and Pub Association at www.beerandpub.com
- The Alcohol Strategy, Home Office
- Government website aimed at tackling anti-social behaviour www.together.gov.uk
- Safer clubbing guide available at www.drugs.gov.uk

Appendix 2: Evidence in support of a special cumulative impact policy prepared by Cumbria Constabulary dated 6th November 2014



EVIDENCE IN SUPPORT OF A SPECIAL CUMULATIVE IMPACT POLICY

On behalf of Superintendent Gary Slater

6th November 2014

Report Contents: -

1. Purpose of Report	Page 3
2. Background	Page 3
3. The Licensing Act 2003	Page 3
3.1 Special Cumulative Impact Policy & Licensing	Page 3
3.2 Effect of a Special Policy	Page 4
3.3 Home Office Guidelines. Steps to be taken	Page 4
4. Identification of concerns with regard to Crime & Disorder	
4.1 Problem Identification	Page 4
4.2 Areas to be covered	Page 5
Whitehaven Town centre	Page 5
5. Consultation with other relevant bodies	Page 6
6. Conclusion	Page 6
7. Intelligence Unit report	Appendix A
Whitehaven Town centre	
8. Maps of the defined areas	Appendix B
Whitehaven Town centre	

1. Purpose of Report.

The purpose of this report is to request that defined areas of Whitehaven town centre be included within a new special cumulative impact policy. This report is intended to provide evidence and information to the Licensing Committee and Full Council to support this request by providing relevant crime and disorder statistics.

2. Background.

Under the Licensing Act 2003 there is a presumption to grant all licensing applications. Should any individual premises be identified as being poorly managed then action can be taken to review that licence, based on evidence being presented. There is an expectation that the review of a licence should only take place once all other options have been explored. The Act does not in ordinary circumstances address Crime and Disorder issues which cannot be tied to any individual licensed premises.

Where a specific defined area has so many licensed premises that it becomes impossible to identify where incidents of crime and disorder originated, then the area may be defined as saturated and a special cumulative impact policy may be included in the Council's Licensing Policy to address the problems .

This report highlights the crime and disorder issues and demand for Police and other services associated with the night-time economy within Whitehaven Town Centre.

3. The Licensing Act 2003.

3.1 Special Policy and Licensing Policy.

A Special Cumulative Impact Policy (SCIP) is not absolute. Each licence application will still be considered on its own merits. Those applications where it can be shown do not have an adverse impact on crime and disorder within the stress area and are unlikely to add to the cumulative impact on the licensing objectives will be considered.

The statement of policy says that Licensing Law is not the primary mechanism for the general control of anti-social behaviour and nuisance by individuals once they are away from the licensed premises and beyond the direct control of the respective business or club holding the licence, certificate or authorisation. Nevertheless, it is a key aspect of such control, and the licensing law will continue to be an integral part of the overall management of the evening and night-time economy in Whitehaven town.

3.2 Effect of a Special Cumulative Impact Policy.

The effect of adopting a SCIP will be to create a rebuttable presumption that an application for a new premises licence, club premises certificate, a variation application or Temporary Event Notice will normally be refused. This special policy will only come into effect once a representation has been submitted by a relevant authority or interested party. Whilst such a policy is in place any applicant would have to clearly demonstrate why the operation of those premises would not add to the cumulative impact already being experienced.

3.3 Home Office Guidelines: Steps to be taken.

Guidelines state that certain steps need to be taken when considering whether to adopt a SCIP within the statement of Licensing Policy: -

- Identification of concern about Crime and Disorder or Public Nuisance.
- Consideration of whether it can be demonstrated that the Crime and Disorder and Public Nuisance are occurring and are caused by customers of licensed premises. If so, then identifying the area or areas from which those problems are arising and the boundaries of the area or areas, or that the risk factors are such that the area or areas are reaching such a point that cumulative impact is imminent.
- Consultation with other relevant bodies. Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from within that area or areas within the terms of this Guidance in the statement of Licensing policy; resulting in,
- The publication of the SCIP as part of the statement of the Licensing policy.

4. Identification of concern with regards to Crime and Disorder Problem Identification.

4.1 Problem Identification.

In considering whether a SCIP is appropriate for Whitehaven Town Centre it needs to be shown that the Crime and Disorder problems are caused by the patrons of a number of premises rather than any one individual premises. This includes both the concentration of licensed premises in the affected areas, AND the total impact of these combined licensed premises on Crime and Disorder.

Within Whitehaven Town Centre the majority of the Crime and Disorder problems occur close to licensed premises, but because of their proximity it is not always possible to attribute incidents to the customers from any particular premises. As many of the premises in the town centre are close together and there is a culture of circuit drinking, it is almost impossible to identify which premises may have visited by one patron during the course of the evening.

Although the current legislation allows the Police to deal with individual premises which may be poorly managed, it does not allow the Police to manage multiple

premise or deal with the larger problem of the total impact of having too many licensed premises concentrated into small areas, hence the need for a SCIP.

The area defined for inclusion in a SCIP has been identified through the use of crime analysis figures as having Crime and Disorder issues. The geographical analysis clearly shows a pattern of reported Crime and Disorder in the defined area.

4.2 Areas to be covered.

The attached map (Appendix B) delineates the proposed areas.

Whitehaven Town Centre

The Town Centre with its large number of licensed premises has very high crime and disorder figures and is a heavy drain on police resources. Within the defined stress area there are currently 27 Pubs bars and night clubs, 6 restaurant style premises and 20 late night refreshment premises.

In April 2011, following a review of the policing in Cumbria and Copeland the resourcing of Whitehaven Town centre was amended to cope with increasing demand and falling resources. Even with this change, demand for police resources has increased with Whitehaven Town Centre accounting for 46% of all violent crime in the town although it is only 2.5% of the geographical area of Whitehaven.

Many of the bars are similar in what they provide, with very little in the way of differentiation. The only way that they can compete is by being open later than their competitors. We are finding that premises are submitting variation applications and TENs to extend their hours in an attempt to capture a larger share of the customer base. The police have been able to object successfully to such applications. This success is based solely on specific evidence regarding the poor management or the number of incidents that had occurred at individual venues.

An additional problem is the number of licensed late night refreshment premises, which have proved to be a flash-point for crime and disorder. These premises rely on the custom of patrons from the bars to provide the majority of their customer base. There are growing numbers of these premises and they are causing an increasing problems with litter, vomit and disorder.

Experience has shown that customers are arriving in the town centre much later than pre-Licensing Act 2003, with many of the bars being virtually empty until 11pm. Customers then drink both heavily and quickly. Once patrons leave these pubs/clubs they tend to hang around in the town centre even in poor weather conditions, requiring policing of the area to continue well past the time that many of the bars have closed.

5. Consultation with relevant other bodies.

Section 13 of the Revised Guidance issued under Section 182 of the Licencing Act 2003 and Section 4.7 of Copeland Borough Councils Licencing policy says that before determining that a Special Cumulative Impact Policy is appropriate and necessary, the Local Authority must consult with specific persons and relevant bodies as outlined in the documents.

6. Conclusion.

On behalf of Cumbria Constabulary I submit the following documents and ask that Copeland Council adopt a Special Cumulative Impact Policy for the area within Whitehaven Town Centre.

Cumbria Constabulary, as a responsible authority, has a duty to work with others to minimize alcohol related crime and disorder. Violence with injury offences linked to the Night Time Economy has been identified as a Force Priority for many years and we have worked to achieve this objective. Despite our actions Whitehaven continues to have higher than average levels of alcohol related incidents .We are now placed in a position that with dwindling resources and falling budgets the situation has reached saturation and we are on the edge of a tipping point.

The view of Cumbria Constabulary is that the introduction of a Special Cumulative Impact Policy within Whitehaven Town Centre is essential and will minimize the increased levels of violence and disorder by limiting the possible extension of licensing hours and the increase in the number of licensed premises.

Without such a policy a licencing applicant is only required to consider the four Licensing Objectives relating to their individual premises or it's very near vicinity. They are not currently required to consider the negative impact their businesses may have on the town. No consideration or responsibility has to be given to customer dispersal or any of the extra demands that would be placed on the limited resources or amenities in the area. Any responsibility or contribution ends at their front door.

We would seek to use the policy specifically in those areas of Whitehaven which suffer from alcohol related crime and disorder where the nature of the premise does, or is likely to contribute to crime and disorder. We support a mixed night-time economy and would only wish to invoke the policy where there are perceived or known issues.

The Geographic area of the policy should be extended beyond the immediate problem hotspots of alcohol related anti-social behaviour, and crime and disorder so preventing displacement of the problem. The area we would propose would cover from Tesco's on North Shore, Bransty Row, George Street, Catherine Street, Lowther Street, Flatt Walks, Coach Road, Preston Street, Swingpump Lane, The Harbourside and back to Tesco's.

We recognize that Licensed Premise contribute to the Whitehaven economy. However, the situation has reached such a stage that the cumulative impact from their activities is disproportionately affecting the rest of Copeland. The Whitehaven Night time economy draws valuable resources into the Town Centre at key periods. This means those in genuine need of the Police, an Ambulance or Health Care are likely to get a delayed service due to their resources being challenged by drunken violent people.

The Night time Economy of Whitehaven has a direct cost to ALL members of Copeland who pay for the excesses of a minority.

We believe that the adoption of a Special Cumulative Impact Policy would provide a positive message to those running and using the Night time Economy and show that Cumbria Police and Copeland Council are serious about keeping people safe and reducing the harm caused by alcohol.

Prepared by:	Karen Bewley
Owner	John Farrar
Version No:	1
Date Last Updated:	13/11/2014

Appendix A

*This product has been prepared from police data to show evidence of the Cumulative Impact that the Night Time Economy is having on Whitehaven Town Centre.
It contains information in an abridged format.
The GPMS is “Not Protectively Marked”*

Aims and Purpose

Since 2013, Violent Crime & Anti-Social Behaviour has begun to increase in the Whitehaven Area with monthly figures often rising significantly above the 3 year average. The hot spot area for these types of crimes / incidents in Whitehaven has historically been beats V02, V03 & the South end of V04 – all within the town centre & concentrated around the night time economy. Consequently, the aim is to consider if there is evidence to obtain a Special Cumulative Impact Policy (SCIP) to tackle these issues.

The purpose of this document is to identify if Violent Crime & Anti-Social Behaviour is still a problem in Whitehaven Town Centre & where / when the bulk of the crimes / incidents are occurring in order to provide evidence to support the SCIP application & ultimately reduce alcohol related Violence & ASB in Whitehaven.

Methodology

All crime & incident data has been extracted from SLEUTH crimes using the Area Analyst Extract V1.2 Access Database for the time period 1st October 2013 to 30th September 2014. The beat codes analysed were V03 to V11 (excluding V10 Distington) – those in the Whitehaven area & the categories were Offences against the Person, Sexual Offences & Robbery.

The data for Anti-Social Behaviour incidents has been extracted from the SLEUTH Command & Control System with the same parameters. The data has been mapped using Northgate xd software & also formatted within Microsoft Excel for analysis purposes.

Finally Section 27 Banning Order data has been extracted from the ‘Section 27 Register 2014’ as maintained by the Community Safety Department. At present this data is only available up until the 30th August 2014.

Scope

It is proposed that the SCIP should be that as outlined on the map on page 8. For analysis purposes this will be classed as beats Police beat areas V02, V03 & V04. It is noted that only the south end of V04 fits into the proposed area however this is where the majority of incidents have occurred within that beat area.

Key Points & Evidence

Whitehaven

- The proposed SCIP area represents approximately 2.5% of the Whitehaven area
- 30% of all crime in Whitehaven was Violent Crime
- 46% of all crime in Whitehaven occurred within the proposed SCIP area
- 46% of all Violent Crime in Whitehaven took place within the proposed SCIP area

- 47% of all Anti-Social Behaviour incidents took place within the proposed SCIP area

Beats V02, V03 & V04 – The Proposed SCIP Area

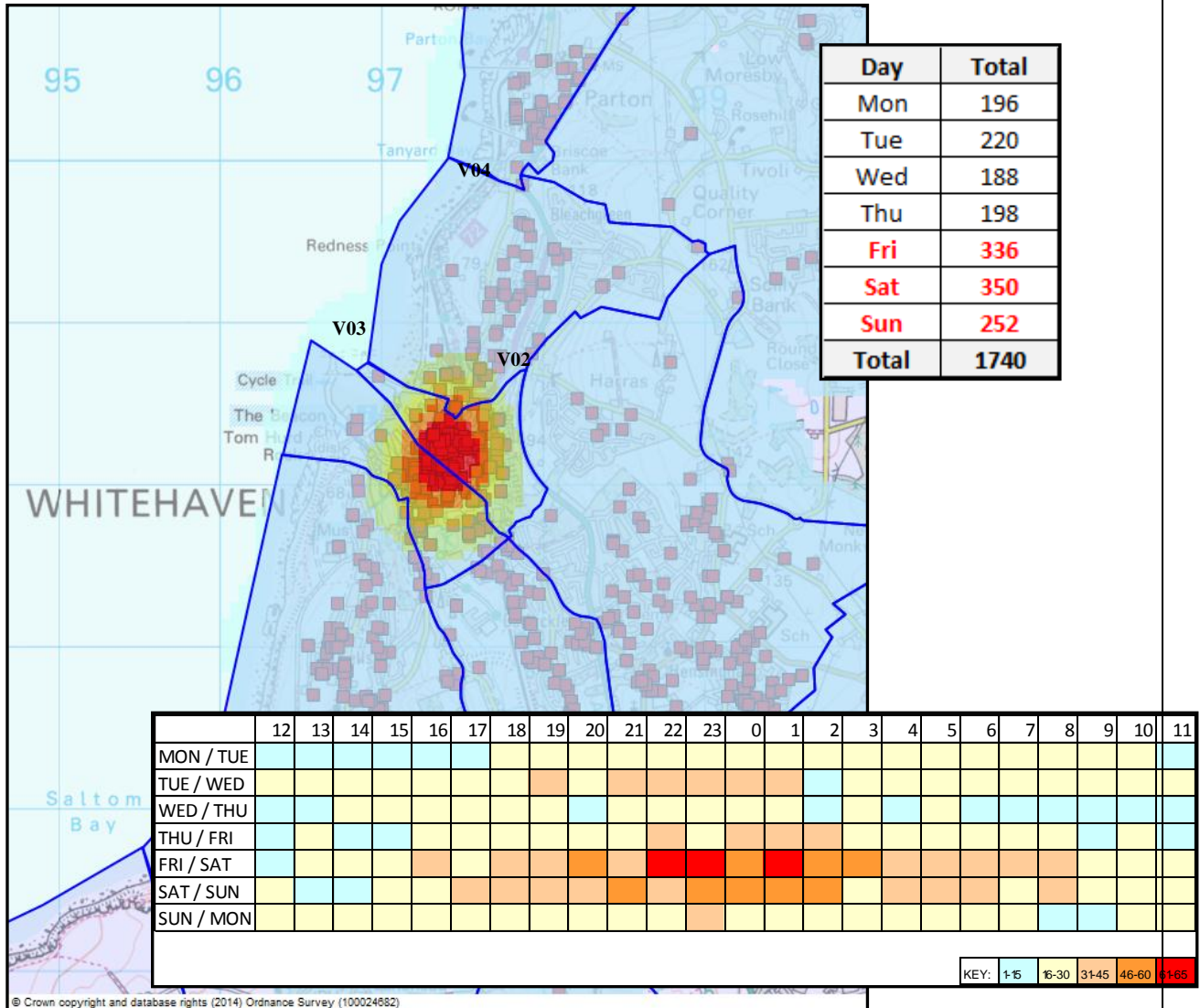
- Nearly half of all Violent Crime in Whitehaven takes place in the town centre at weekends
- Peaks times are between 21.00 & 01.00 hours on Friday / Saturday & between 19.00 & 01.00 hours on Saturday evening followed by 23.00 on Sunday
- The top 10 premises for Violent Crime within the proposed SCIP area were all licensed premises
- The top 10 streets for Violent Crime within the proposed SCIP area are all in close vicinity of the night time economy establishments
- The majority of Violent Crimes were Assault with / without Injury, however there were 11 Malicious Wounding's
- 76% of alcohol related Anti-Social Behaviour took place in the proposed SCIP area
- Over half of all Anti-Social Behaviour incidents took place at weekends with peaks between 21.00 & 00.00 hours Saturday / Sunday as well as between 22.00 & 02.00 hours Saturday / Sunday
- The top 10 premises for Anti-Social Behaviour were licensed premises supermarkets & fast-food outlets
- The top 10 streets for Anti-Social Behaviour were mainly in close vicinity of the night time economy
-

Section 27 Banning Orders

- 93% of all Section 27 Banning Orders were issued within Whitehaven Town Centre, mainly around the night time economy & licensed premises
- The majority of Section 27 Banning Orders were issued on Saturday morning between 00.00 & 01.00 hours as well as Saturday / Sunday between 23.00 & 02.00 hours

All Crime – Whitehaven Beats V02, V03, V04, V05, V06, V07, V09 & V11

Between the 1st October 2013 & 30th September 2014 there were 1740 crimes recorded in the Whitehaven area. A total of 793 or 46% of these offences took place within the town beats of V02, V03 & V04. This is illustrated on the hot spot map below.

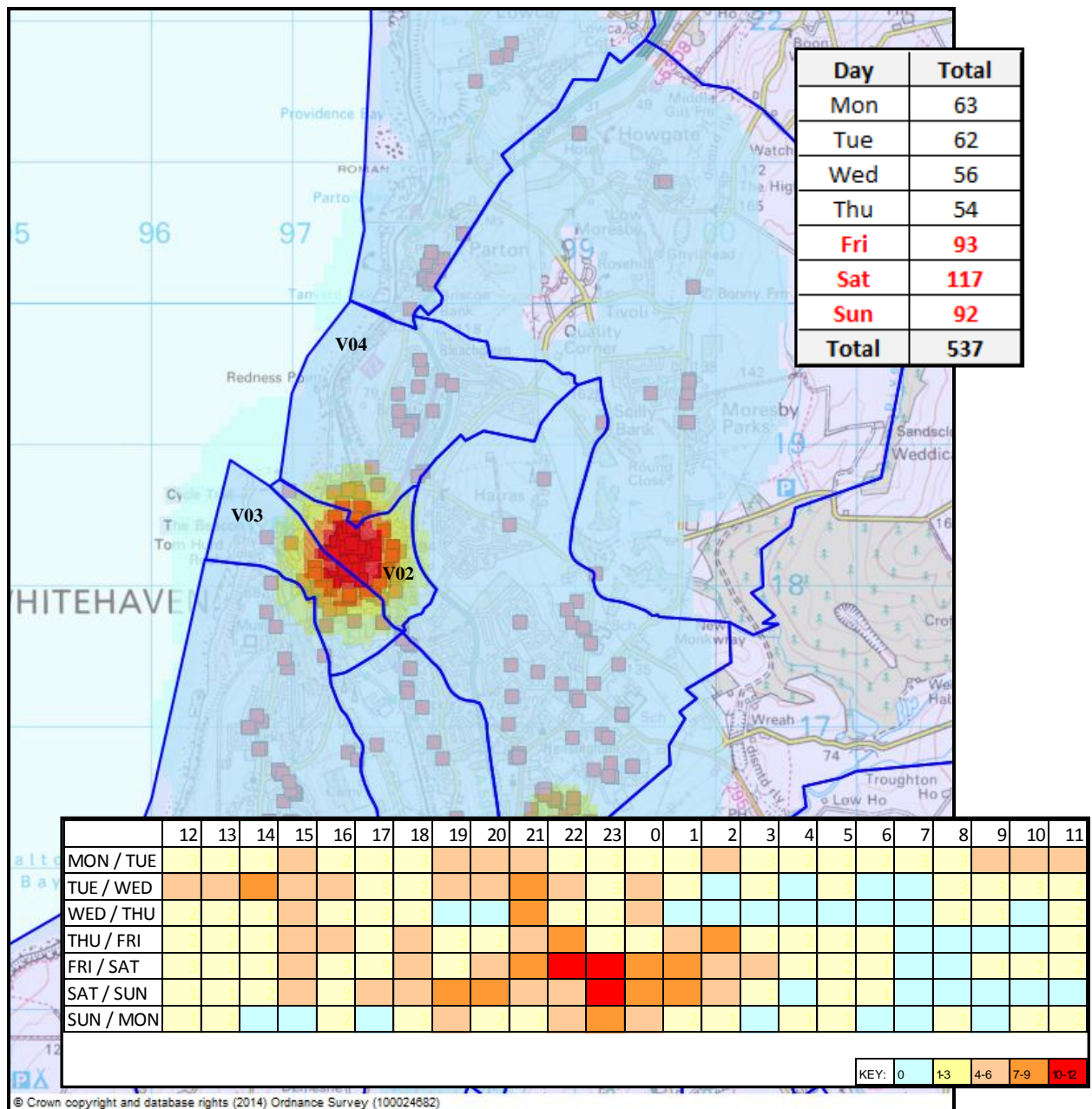


The table above shows the crimes per day based upon the ‘Earliest Date Reported’ & shows that 938 or 54% of offences have occurred on Friday, Saturday & Sunday. When the timings of the offences taking place are examined, it can be seen that the busiest days are Friday / Saturday from 20.00 to 03.00 hours & Saturday / Sunday

from 21.00 to 02.00 hours. These peaks are likely to be as a result of the concentration of Violence within the town centre.

Violent Crime – Whitehaven Beats V02, V03, V04, V05, V06, V07, V09 & V11

A total of 537 or 31% of the crimes recorded between 1st October 2013 & 30th September 2014 were Violent Crimes. Some 246 or 46% of these crimes took place in the town centre beats of V02, V03 & V04 (V04 leads onto Bransty however this beat includes one of the main licensed premises in the town – The Bransty Arch). The hot spot areas are illustrated on the map below.



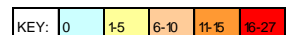
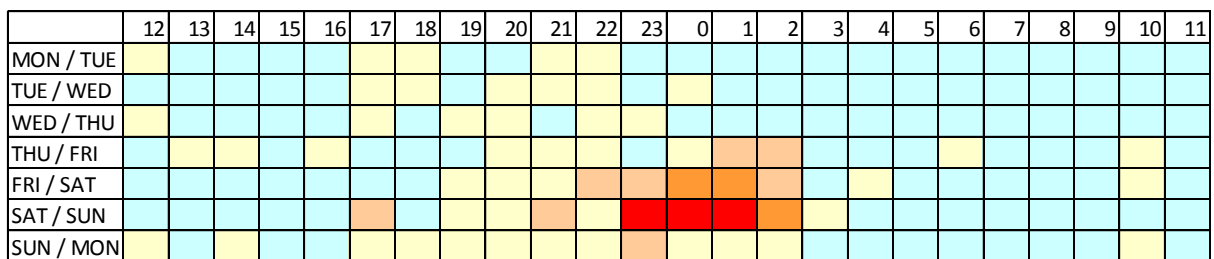
The temporal matrix & table above shows that incidents of Anti-Social Behaviour are most prevalent on Friday, Saturday & Sunday with times of incidents peaking between 21.00 & 00.00 hours Saturday / Sunday as well as between 22.00 & 02.00 hours Saturday / Sunday. Again, this indicates that there is a strong link between the Town Centre & Anti-Social Behaviour.

Section 27 Banning Orders

Between 1st October 2013 & 30th August 2014 there were 257 Section 27 Banning Orders issued in Whitehaven. A total of 239 or 93% of these were issued within the Town Centre & the table below shows the majority of them were issued in or around licensed premises or the main area of the night time economy.

LOCATION	COUNT
SENHOUSE STREET	51
DUKE STREET	50
TANGIER STREET	29
TOWN CENTRE	27
LOWTHER STREET	14
STRAND STREET	6
CAPT SENNYS	5
JOHN PAUL JONES	4
KING STREET	4
NEW STREET	4
QUEEN STREET	4
CHURCH STREET	3
MARKET PLACE	3
SHAKERS DUKE STREET	3
TESCO	3
WEATHERSPOONS	3
ANCHOR VAULTS PH	2
BRANSTY ROW	2

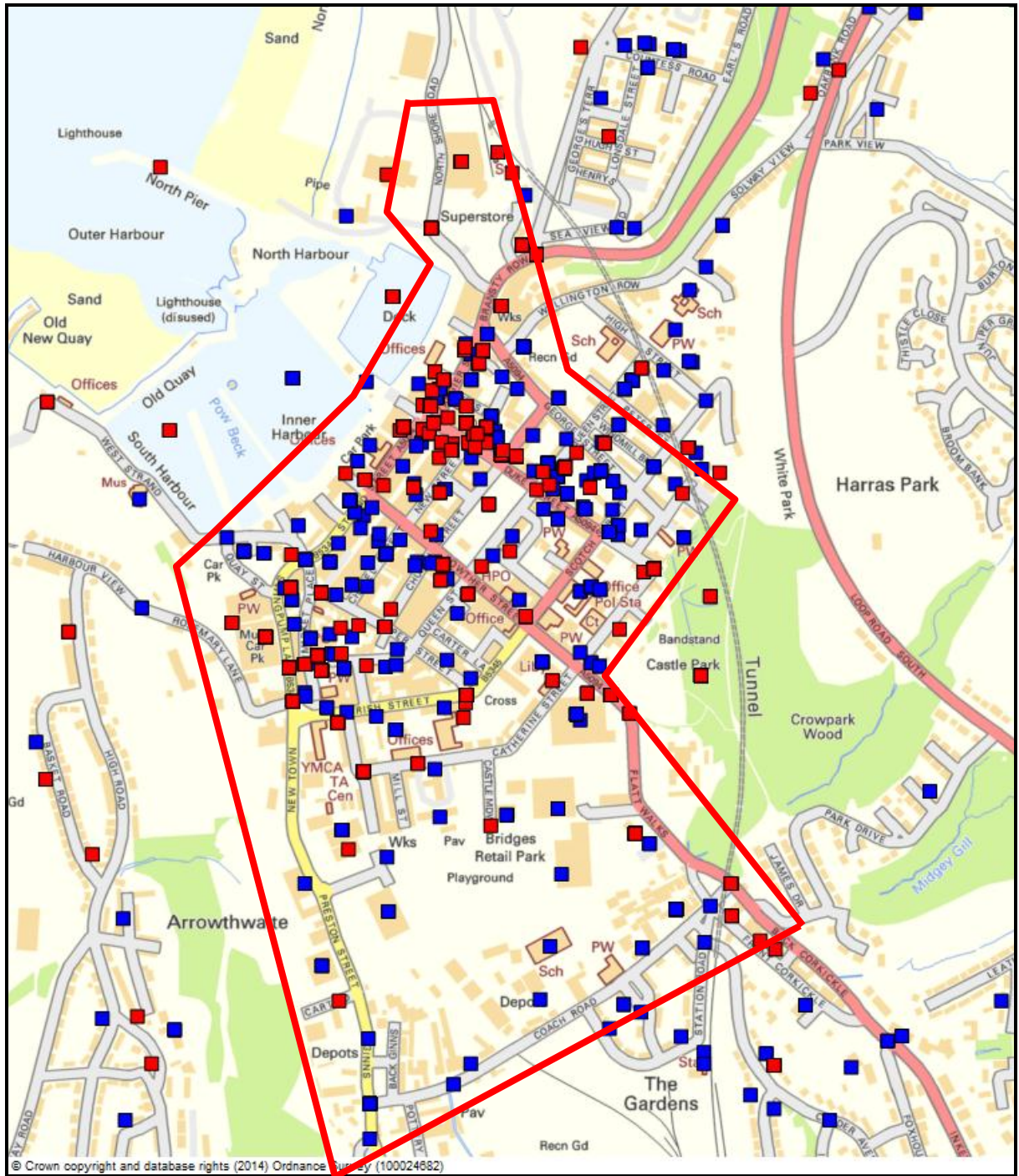
LOCATION	COUNT
FLATT WALKS	2
HARBOURSIDE	2
SCOTCH STREET	2
WHITEHAVEN FC	2
BARRAJACKS	1
BRIDGES RETAIL ARK	1
CANDLESTICK	1
IRISH BAR	1
MARCHON CLUB	1
NORTH BAR DUKE STREET	1
NORTH SHORE ROAD	1
ROC BAR TANGIER STREET	1
RUGBY LEAGUE CLUB	1
SCOTCH/DUKE STREET	1
SENNYS CARPARK	1
STRAND ST/DUKE ST	1
THE VINE MARKETPLACE	1
WATERFRONT	1



The temporal matrix shows that most of the Section 27 Banning Orders were issued on Saturday morning between 00.00 & 01.00 hours as well as Saturday / Sunday between 23.00 & 02.00 hours. During these times there have been a high number of individuals removed from the Town Centre for up to 48 hours in order to prevent them committing a Violent Crime or further Alcohol Related Anti-Social Behaviour.

Proposed SCIP Area

The map below shows the proposed Special Cumulative Impact Policy Area along with the Violent Crime shown by red squares & Anti-Social Behaviour shown by blue squares. Analysis indicates that this proposed area would capture the part of Whitehaven town where the highest levels of Violent Crime & Alcohol Related Anti-Social Behaviour are occurring.



Violent Crime Repeat Locations – Whitehaven Beats V02, V03 & V04

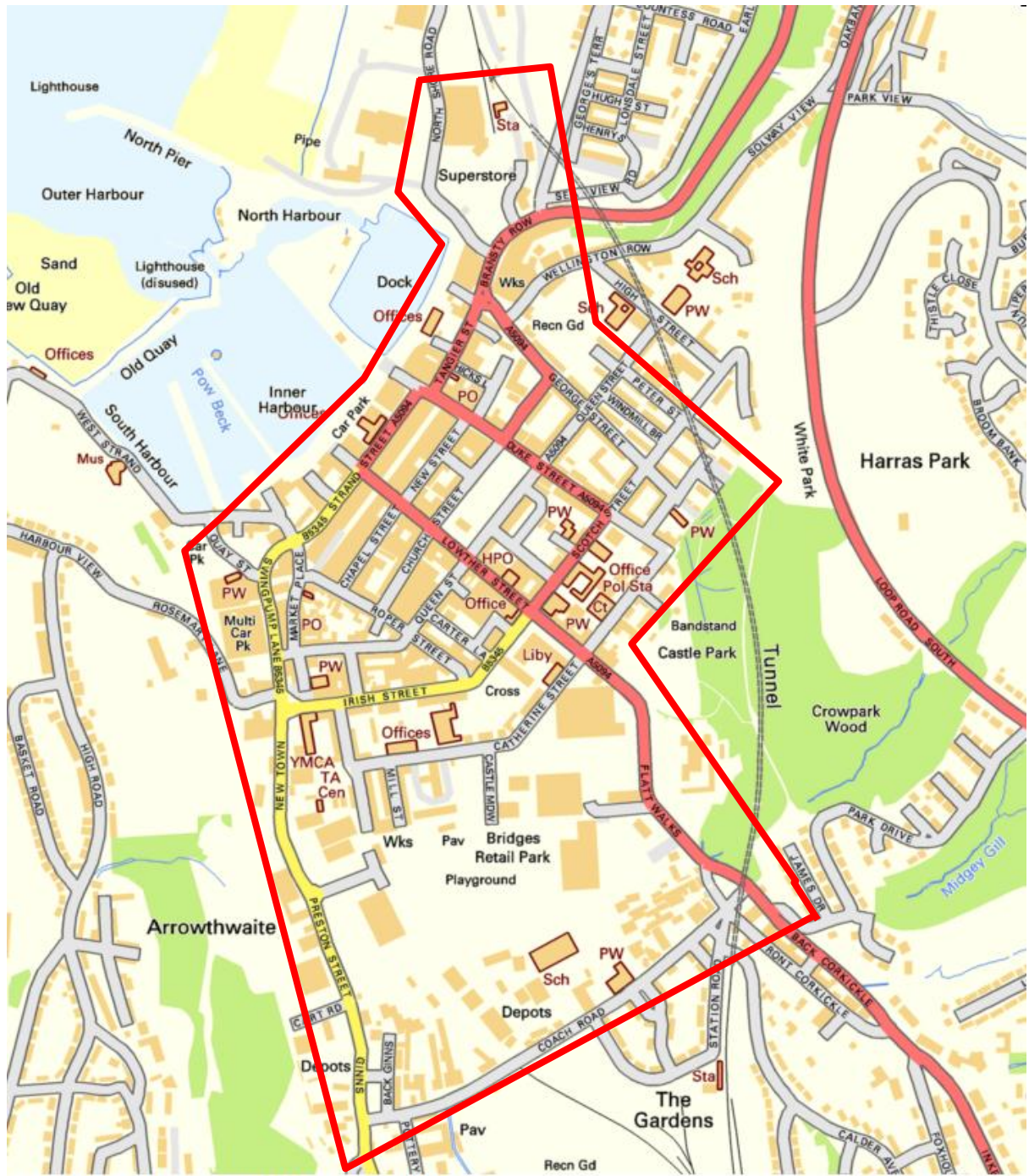
TOP 10 PREMISES	
PREMISE	COUNT
CAPTAIN SENNYNS	17
PAUL JONES TAVERN	8
WETHERSPOONS, THE BRANSTY ARCH	8
THE ROCK BAR	6
BARRA JACKS	6
ANCHOR VAULTS	6
NORTH	5
SNECKLIFTER	4
CENTRAL HOTEL	3
INDIAN SPICE	3
TOTAL	49

TOP 10 STREETS	
STREET	COUNT
DUKE STREET	60
SENHOUSE STREET	23
TANGIER STREET	19
LOWTHER STREET	15
MARKET PLACE	9
BRANSTY ROW	9
KING STREET	8
QUEEN STREET	8
JAMES STREET	6
TOTAL	157

TOP 10 PREMISES	
STREET	COUNT
CAPTAIN SENNYNS	49
SHAKERS	27
WETHERSPOONS	27
TESCO STORES LTD	16
THE ROCK BAR	15
PAUL JONES TAVERN	14
MCDONALDS RESTAURANTS LTD	12
MARCHON SPORTS and SOCIAL CLUB	10
WM MORRISON SUPERMARKETS PLC	10
ANCHOR VAULTS	9
TOTAL	189

TOP 10 STREETS	
STREET	COUNT
DUKE STREET	159
TANGIER STREET	82
SENHOUSE STREET	79
LOWTHER STREET	58
QUEEN STREET	44
BRANSTY ROW	41
MARKET PLACE	28
KING STREET	28
SCOTCH STREET	23
COACH ROAD	21
TOTAL	563

Appendix B



Recommendations:

- To reduce the risk of a potential rise in the number of violent offences and disorder within Whitehaven Town Centre it is strongly recommended that the 'selected' areas of Whitehaven (Map – Appendix B) becomes a Special Cumulative Impact Area, preventing any further licensed premises applications from opening in an area already saturated with pubs and clubs and late night refreshment premises.

End of report

**Appendix 3: Extract (Chapter 13 – Statements of licensing policy)
from the Home Office’s revised guidance issued under
section 182 of the Licensing Act 2003**

13. Statements of licensing policy

Introduction

The Licensing Act 2003

- 13.1 This chapter provides guidance on the development and preparation of local statements of licensing policy for publication by licensing authorities, the general principles that it is recommended should underpin them, and core content to which licensing authorities are free to add.

General

- 13.2 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the date it is published. Previously, licensing authorities were required to determine their licensing policies for each three-year period. Licensing policies published in respect of the three-year period that began on 7 January 2011 are to be treated as though they apply to a period of five years beginning at that date.
- 13.3 Where revisions to the section 182 Guidance are made by the Secretary of State, it will be for the licensing authority to determine whether revisions to its own licensing policy statement are appropriate.

Consultation on policies

- 13.4 Before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:
- the chief officer of police for the area;
 - the fire and rescue authority for the area;

- each local authority's Director of Public Health in England (DPH)⁶ or Local Health Board in Wales for an area any part of which is in the licensing authority's area,
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

13.5 The views of all these persons or bodies should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so. Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons.

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

13.7 However, licensing authorities should consider very carefully whether a full consultation is appropriate as a limited consultation may not allow all persons sufficient opportunity to comment on and influence local policy (for example, where an earlier consultation was limited to a particular part of the policy, such as a proposal to introduce a cumulative impact policy).

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

⁶ This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

Fundamental principles

- 13.9 All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of consultees.
- 13.10 While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.
- 13.11 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.
- 13.12 Statements of policies should make clear that:
- licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and
 - conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.
- 13.13 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

Licence conditions

- 13.14 Statements of licensing policy should reflect the general principles regarding licence conditions set out in Chapter 1 of this guidance.
- 13.15 Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible. Chapter 10 provides further detail on this issue.

Enforcement

- 13.16 The Government recommends that licensing authorities should establish and set out joint-enforcement protocols with the local police and the other authorities and describe them in their statement of policy. This will clarify the division of responsibilities for licence holders and applicants, and assists enforcement and other authorities to deploy resources more efficiently.
- 13.17 In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. In some local authority areas, the limited validity of public entertainment, theatre, cinema, night café and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether the assessed risks make such inspections necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. Principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton review) should prevail and, for example, inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and for example, are more effectively concentrated on problem premises

The need for licensed premises

- 13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

The cumulative impact of a concentration of licensed premises

What is cumulative impact?

- 13.19 “Cumulative impact” is not mentioned specifically in the 2003 Act. In this Guidance, it means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement. Cumulative impact policies may relate to premises licensed to carry on any licensable activity, including the

sale of alcohol for consumption on or off the premises, and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol.

- 13.20 In some areas, where the number, type or density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport. Licensing authorities should consider whether the number of fast food outlets or off licences in an area contribute to these problems, and may choose to include them in their cumulative impact policy.
- 13.21 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 13.22 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.

Evidence of cumulative impact

- 13.23 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. Local Community Safety Partnerships and responsible authorities, such as the police and the local authority exercising environmental health functions, may hold relevant information which would inform licensing authorities when establishing the evidence base for introducing a special policy relating to cumulative impact into their licensing policy statement. Information which licensing authorities may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:

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

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

- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- changes in terminal hours of premises;
- premises' capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

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

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

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

Steps to a special policy

13.28 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below.

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

Effect of special policies

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

cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application.

- 13.30 However, a special policy must stress that this presumption does not relieve responsible authorities (or any other persons) of the need to make a relevant representation, referring to information which had been before the licensing authority when it developed its statement of licensing policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 13.31 Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or if those which are contained in the statement of licensing policy should be amended.
- 13.32 The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 13.33 Special policies may apply to the impact of a concentration of any licensed premises, including those licensed for the sale of alcohol on or off the premises, and premises licensed to provide late night refreshment. When establishing its evidence base for introducing a special policy, licensing authorities should be considering the contribution to cumulative impact made by different types of premises within its area, in order to determine the appropriateness of including different types of licensed premises within the special policy.
- 13.34 It is recommended that licensing authorities should publish contact points in their statements of licensing policy where members of public can obtain advice about whether or not activities should be licensed.

Limitations on special policies relating to cumulative impact

- 13.35 A special policy should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be

justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

- 13.36 Special policies should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. Where the licensing authority has concerns about the effect of activities at existing premises between midnight and 6am on the promotion of the licensing objectives in a specific area, it may introduce an Early Morning Alcohol Restriction Order (EMRO) if there is sufficient evidence to do so (see chapter 16). The “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary.
- 13.37 Special policies can also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly appropriate for the promotion of the licensing objectives.
- 13.38 Every application should still be considered individually. Therefore, special policies must not restrict such consideration by imposing quotas – based on either the number of premises or the capacity of those premises. Quotas that indirectly have the effect of predetermining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned.

Other mechanisms for controlling cumulative impact

- 13.39 Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. To enable the general public to appreciate the breadth of the strategy for addressing these problems, statements of policy should also indicate the other

mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:

- planning control;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance; and
- the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate.
- Raising a contribution to policing the late night economy through the Late Night Levy.
- Early Morning Alcohol Restriction Orders (see Chapter 16).

13.40 As part of its licensing policy, the licensing authority may also wish to consider the use of alternative measures such as fixed closing times, staggered closing times and zoning within its area, providing such mechanisms are justified on the basis of the licensing objectives and are only presumptive, with final decisions continuing to be made in relation to individual premises on a case by case basis in accordance with what is appropriate to promote the licensing objectives. The licensing authority would be expected to include its intention to use such measures in its statement of licensing policy and justify doing so in order to orchestrate closing times so as to manage problems in the night-time economy based on the promotion of the licensing objectives. As with the creation of a CIP, the use of such mechanisms would create a rebuttable presumption and would apply in the event of representations being received.

Public Spaces Protection Order

- 13.41 The Designated Public Place Order (DPPO) will be replaced by the Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014. DPPOs will continue to be valid for a period of three years following commencement of the PSPO. Once that three year period expires, they will be treated as a PSPO and enforceable as such. Where a local authority occupies or manages premises, or where premises are managed on its behalf, and it licenses that place for alcohol sales, the PSPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the PSPO at all other times⁷. This allows local authorities to promote community events whilst still using PSPO to tackle the problems of anti-social drinking. Further guidance about PSPO is available on the GOV.UK website.
- 13.42 It should be noted that when one part of a local authority seeks a premises licence of this kind from the licensing authority, the licensing committee and its officers must consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they must be considered fairly by the committee. Anyone making a representation that is genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority would be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision.

Licensing hours

- 13.43 With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 13.44 Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities,

⁷ Licensed premises in general are exempt from the effect of a PSPO.

and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.

Children

13.45 It is an offence under the 2003 Act to:

- permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a TEN; and
- to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or TEN.

13.46 Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the offences under the 2003 Act. The expression 'exclusively or primarily' should be given its ordinary and natural meaning in the context of the particular circumstances.

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

13.48 The 2003 Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity or to the same premises even if they are accompanied, or to premises where the consumption of alcohol is not involved. Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The 2003 Act includes no presumption of giving children access but equally, no presumption of preventing their access to licensed

premises. Each application and the circumstances of individual premises must be considered on their own merits.

- 13.49 A statement of licensing policy should 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 (please see Chapter 2). It may not be possible for licensing policy statements to anticipate every issue of concern that could arise in respect of children in relation to individual premises and therefore the individual merits of each application should be considered in each case.
- 13.50 A statement of licensing policy should make clear the range of alternatives which may be considered for limiting the access of children where that is appropriate for the prevention of harm to children. Conditions which may be relevant in this respect are outlined in paragraph 2.30.
- 13.51 Statements of policy should also make clear that conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is appropriate, this should remain a matter for the discretion of the individual licence holder, club or premises user.
- 13.52 Venue operators seeking premises licences and club premises certificates should consider including such prohibitions and restrictions in their operating schedules particularly where their own risk assessments have determined that the presence of children is undesirable or inappropriate.

Responsible authority and children

- 13.53 A statement of licensing policy should indicate which body the licensing authority judges to be competent to act as the responsible authority in relation to the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or other competent body as agreed locally. It would be practical and useful for statements of licensing policy to include descriptions of the responsible authorities in any area and appropriate contact details.

Children and cinemas

- 13.54 The statement of policy should make clear that in the case of premises giving film exhibitions, the licensing authority will expect licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films

classified according to the recommendations of the British Board of Film Classification or the licensing authority itself (see paragraphs 10.62 to 10.63).

Integrating strategies

- 13.55 It is recommended that statements of licensing policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

Planning and building control

- 13.56 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.57 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

Promotion of equality

- 13.58 A statement of licensing policy should recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

- 13.59 Public authorities are required to publish information at least annually to demonstrate their compliance with the Equality Duty. The statement of licensing policy should refer to this legislation, and explain how the Equality Duty has been complied with. Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.

Administration, exercise and delegation of functions

- 13.60 The 2003 Act provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by its licensing committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The licensing committee may delegate these functions to sub-committees or in appropriate cases, to officials supporting the licensing authority. Where licensing functions are not automatically transferred to licensing committees, the functions must be carried out by the licensing authority as a whole and not by its executive. Statements of licensing policy should indicate how the licensing authority intends to approach its various functions. Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.
- 13.61 The 2003 Act does not prevent the development by a licensing authority of collective working practices with other parts of the local authority or other licensing authorities for work of a purely administrative nature, e.g. mail-outs. In addition, such administrative tasks may be contracted out to private businesses. But any matters regarding licensing decisions must be carried out by the licensing committee, its sub-committees or officers.
- 13.62 Where, under the provisions of the 2003 Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers in order to speed matters through the system. Licensing committees should receive regular reports on decisions made by officers so that they maintain an overview of the general situation. Although essentially a matter for licensing authorities to determine themselves, it is recommended that delegation should be approached in the following way:

Table: Recommended Delegation of Functions

Matters to be dealt with	Sub Committee	Officers
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 vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases