



LICENSING ACT 2003

HAVANT BOROUGH COUNCIL

LICENSING POLICY 2011

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HAVANT BOROUGH COUNCIL LICENSING ACT 2003 SECTION 5

Statement of Licensing Policy 2011 - 2014

This document sets out the Council (“the Licensing Authority”) Licensing Policy in respect of its licensing functions for the next three years commencing in 2011. During the three year period the policy will be kept under review and revised when appropriate. Further licensing policy statements will be published every three years thereafter.

The Licensing Act 2003 (“The Act”) introduces a requirement for all local authorities to set out their policy in respect of licences for the sale of alcohol, the provision of entertainment and the provision of late night refreshment. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the official Guidance issued under Section 182 of the Act.

Where any amendments are considered necessary, these will be made after consultation has taken place in accordance with Section 5(3) of the Act. Proper weight will be given to the views of all those consulted. Those to be consulted may include:

- The Chief Officer of Police for Hampshire
- The Chief Officer of Hampshire Fire & Rescue Service
- Bodies representing local holders of premises licences and club premises certificates
- Bodies representing local holders of personal licences
- Bodies representing businesses and residents in the Licensing Authority’s area
- Any other bodies the Licensing Authority deems appropriate

1. INTRODUCTION

- 1.1 The Borough is just over 21 square miles and serves a population of around 120,000 people.
- 1.2 The Havant Borough has many and varied licensed premises. The Licensing Authority recognises that these premises play a vital part in the cultural identity of the area and are important contributors to the local economy. The premises attract tourists and visitors and make for vibrant towns and communities, while at the same time providing employment.
- 1.3 There are approximately 322 licensed premises in the district where alcohol is sold or entertainment provided on a regular or occasional basis. These premises include:
 - public houses and nightclubs

- off-licences
- businesses offering hot food between 2300 and 0500hrs
- hotels, guest houses, restaurants and other places that sell alcohol
- private members clubs and social clubs
- theatres and amateur dramatic groups
- cinemas
- premises where indoor sporting events take place

1.4 Havant Borough Council is the “Licensing Authority” as defined under the Licensing Act 2003 (“the Act”) and is responsible for considering all applications for “licensable activities”, as defined in section 1 of the Act. The purpose of licensing is to regulate the operation of licensable activities on licensed premises, qualifying clubs and at temporary events. Licensable activities, identified by the Act, include:

- Retail sale of alcohol
- Supply of hot food or hot drink from premises between 2300 and 0500hrs
- Supply of alcohol to club members
- Provision of entertainment listed below (known as "regulated entertainment") to the public or club members or with a view to profit:
 - Film exhibitions
 - Performances of a play
 - Indoor sporting events
 - Boxing or wrestling entertainment
 - Live music performances
 - Playing of recorded music
 - Dance performances
 - Provision of facilities for making music
 - Provision of facilities for dancing

1.5 There are a number of exceptions and details of these are set out in Sections 173 to 175 and in Schedules 1 and 2 of the Act.

1.6 The Licensing Authority has established a Licensing Committee consisting of 15 Councillors. All matters relating to licensing functions come under the direction of this committee.

1.7 The Licensing Committee may establish one or more sub-committees to whom certain decisions will be delegated. In the interests of speed and efficiency the Licensing Committee may also delegate some licensing decisions and functions to authorised officers. The Licensing Committee may receive reports on decisions made by officers to inform its overview of licensing matters. . Appendix 1 (Schedule of Delegation) sets out the framework for licensing decisions.

2. LICENSING OBJECTIVES

- 2.1 The Licensing Authority recognises that the best means of promoting the licensing objectives (see paragraph 2.2) is through the co-operation and partnership of local authorities, the police, local business, performers, local people and those involved in child protection.
- 2.2 When dealing with licensing matters the Licensing Authority will promote and have regard to the four licensing objectives set out in the Act. These are:
- The prevention of crime and disorder;
 - The promotion of public safety;
 - The prevention of public nuisance
 - The protection of children from harm.
- 2.3 The Licensing Authority's primary focus is the impact of licensed activities on those who are living or working in the vicinity of the premises concerned. Licensing law is not the primary mechanism for the control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises. This is beyond the direct control of the individual, business or club holding the licence or certificate concerned. Nonetheless, it is an important aspect of such control and licensing law will always be part of an holistic approach to the management of the evening and night-time economy in this borough.

3. INTEGRATION OF THE POLICY INTO WIDER INITIATIVES

- 3.1 Through consultation prior to publication, the Licensing Authority has endeavoured to ensure that this Policy is integrated into other local initiatives and that the views of other stakeholders who are involved, directly or indirectly in the promotion of the licensing objectives, are taken into account.
- 3.2 The Licensing Authority will work closely with the responsible authorities on issues of enforcement. Conditions attached to individual premises licences and club premises certificates may also reflect local crime prevention initiatives. Neighbouring authorities may also be consulted where appropriate.
- 3.3 The Licensing Authority recognises that there should be a clear separation of the planning, building control and licensing systems.
- 3.4 Premises must also comply with all other relevant legislation that imposes specific controls on their activities that affect, for example
- gambling
 - food safety
 - environmental protection and noise
 - health and safety
 - fire safety
 - smoking
 - equality and diversity
 - planning and building controls

- 3.5 The Licensing Authority will seek to avoid duplication with other regulatory regimes wherever possible.
- 3.6 The Licensing Authority recognises that as part of implementing cultural initiatives it should encourage and promote live music, dancing and theatre for the wider benefit of the community.
- 3.7 The wider cultural benefits of entertainment will always be balanced with the need to prevent disturbance to local neighbourhoods. Care will be taken to ensure that only necessary and reasonable licensing conditions are imposed which do not discourage the promotion of entertainment.

4. DETERMINATION OF LICENSING APPLICATIONS

- 4.1 Each application will be determined on its individual merits.
- 4.2 Nothing in the Licensing Policy will:
 - undermine the rights of any person to apply under the Act for any licence, certificate or notice
 - override the right of any person to make representations on any application or to seek a review of a licence or certificate where they are permitted to do so under the Act.
- 4.3 *Conditions* - Individual applicants are expected to address the promotion of the licensing objectives when making their application. Conditions that are attached to the licence may take into account, for example, the nature of the location, the type of premises, the regulated activities to be provided, the operational and management procedures of the premises and the needs of the local community. For examples of conditions that may be applied, applicants may refer to the model pool of conditions contained in the Guidance issued under section 182 of the Licensing Act 2003.
- 4.4 Where the Licensing Authority does not receive any representations about the terms of the application, it will grant the licence or certificate subject only to conditions that are consistent with the operating schedule. Mandatory conditions prescribed in the Act will also be included.
- 4.5 The Licensing Authority cannot impose conditions unless its discretion has been engaged following the making of representations and it has been satisfied at a hearing of the necessity to do so. Conditions will only then be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives. Conditions will also be tailored to the individual characteristics of the premises and licensable activities concerned.
- 4.6 *Licensing hours* - Flexible licensing hours for the sale of alcohol may help to avoid the possibility of large numbers of customers leaving premises simultaneously. This can help to reduce impact and disturbance at, for example, late night fast food outlets, taxi ranks and other sources of transport.
- 4.7 The Licensing Authority may permit shops, stores and supermarkets to sell alcohol for consumption off the premises at any time they are open for

business. Where, however the Police make recommendations for the restriction of hours, then this will be considered. Every sale of alcohol must be authorised by a person who holds a personal licence.

5. TYPES OF LICENCES, CERTIFICATES AND NOTICES

Personal licences

- 5.1 A personal licence application may be granted to any applicant, who:
- is ordinarily resident in the Licensing Authority's district
 - is aged 18 or over
 - possesses a licensing qualification accredited by the Department of Culture, Media and Sport (DCMS) or is a person of a prescribed description as determined by the Secretary of State.
- 5.2 A licence will not be granted to any applicant who has had a personal licence forfeited within the five year period preceding the date of the application.
- 5.3 Every application for a personal licence must be accompanied by details of convictions of any relevant or foreign offences in the prescribed form. This will assist the Licensing Authority in determining whether the applicant has any relevant unspent convictions.
- 5.4 The police may oppose an application if an applicant has a relevant unspent conviction or a conviction for a comparable offence in a foreign jurisdiction. If a police objection is received the application will be determined by the Licensing Committee or Sub-Committee at a hearing where all representations relevant to the grant or refusal of the licence, will be taken into consideration. These may include the nature of any offences, the time since their commission and any mitigating circumstances. The applicant may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. There will be no need for a hearing if the applicant, Licensing Authority and Chief Officer of Police agree that it is not necessary.
- 5.5 The Act requires the Licensing Authority to reject an application if it considers that this is necessary in the interests of crime prevention. Where there is a police objection, the application will normally be refused unless there are exceptional and compelling reasons to grant the licence.

Premises Licences

- 5.6 A premises licence is required for any premises used for one or more licensable activities as defined in paragraph 1.4. Those who may apply for licences are defined in section 16 of the Act as:

‘Any person who is 18 or over and who carries or intends to carry on a business which involves the use of premises for licensable activities may apply for a premises licence either on a permanent or time-limited basis. Certain other individuals and groups, including registered clubs, charities, National Health Service organisations etc may also apply for a licence.’

5.7 The requirements in relation to applications for premises licences are set out in section 17 of the Act. An application for a premises licence must be made on the prescribed form to the Licensing Authority (with copies to each of the appropriate responsible authorities, see paragraph 5.9). The application must be accompanied by:

- an operating schedule that demonstrates that the licensed premises can comply with the Licensing Authority's licensing policy and will promote the licensing objectives.
- a plan of the premises to which the application relates in the prescribed form
- a form of consent from the individual who is to be specified in the licence as the Designated Premises Supervisor (where the application involves the sale of alcohol)
- the relevant fee

Fee levels and prescribed forms may be viewed on the HBC website.

5.8 Applicants for premises licences and club premises certificates are encouraged to speak to the Licensing Authority (and to the responsible authorities where relevant) for an informal discussion before submitting an application. Unless making an electronic application, applicants are required to copy details of their applications to the “responsible authorities”, namely:

- the chief officer of police;
- the local fire and rescue authority;
- the local enforcement agency for the Health and Safety at Work etc Act 1974 (environmental health)
- the local environmental health authority
- the local planning authority;
- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- the local weights and measures authority (trading standards)
- any licensing authority, other than the relevant licensing authority, in whose area part of the premises are situated.

(see details of licensing contacts in Appendix 2)

5.9 Applicants are also required to advertise the application by placing notices on the premises and in a local newspaper.

Further information and links to the electronic application procedures are available on the Council's website.

Provisional Statements

5.10 Where premises are to be constructed, extended or substantially altered, new applicants or existing licence holders can apply for a Provisional Statement. This is a system of prior approval where a premises licence covering the desired licensable activities would be granted once the building work is

completed. Where responsible authorities or interested parties make representations a hearing will be held. The Licensing Authority may attach conditions to promote any of the licensing objectives. It is recognised that structural alterations which change the layout and character of an existing licensed premises can have an effect on the licensing objectives. Detailed consideration is therefore required.

Club Premises Certificates

- 5.11 The Licensing Authority acknowledges that premises to which public access is restricted, and where alcohol is supplied other than for profit, are distinct to commercial enterprises selling direct to the public. Premises holding club premises certificates do not have the requirement for a personal licence holder or Designated Premises Supervisor.
- 5.12 The Licensing Authority will consider applications for premises licences if the Club decides that it wishes to offer its facilities commercially for use by the general public. The applicant should consider whether any planning consent must be sought prior to the submission of the premises licence application.
- 5.13 When a premises has the benefit of a Club Premises Certificate, an application may be made to allow those running the premises to supply alcohol for consumption off the premises to its members. Such supply will only be allowed during the hours that the premises are open for supply of alcohol to its members on the premises.

Temporary Event Notices

- 5.14 Temporary events involving licensable activities will be permitted if certain criteria are fulfilled. The Licensing Authority encourages persons organising events (“premises users”) to have due regard to any concerns of occupiers of premises sited adjacent to the proposed venue.
- 5.15 When a temporary event is proposed, notice of the event, must be made to the Licensing Authority and the Chief Officer of Police at least 10 working days before the event is due to start. Organisers are encouraged to do this well before the statutory period is reached so that any problems can be resolved early.
- 5.16 On receipt of a temporary event notice the Licensing Authority will issue an acknowledgement or a counter notice. A counter notice relates to circumstances where certain limits permitted under the Act for running temporary events have been exceeded. These limits are detailed in section 107 of the Act.
- 5.17 If the Chief Officer of Police is satisfied that the event will undermine the crime and disorder objective, an objection notice stating the reasons concerned will be served on the premises user and the Licensing Authority within 48 hours.
- 5.18 The Licensing Authority will then hold a hearing to consider the objections unless all parties agree that a hearing is unnecessary. If the Licensing Authority agrees with the Police’s objection then it will serve a counter notice

on the premises user. This counter notice means that permission for the temporary event has not been granted.

- 5.19 The Police are the only statutory consultee. When an application is received by the Licensing Authority however, it will (for information purposes only) notify the other responsible authorities at the earliest possible opportunity.

6. CUMULATIVE EFFECT AND SPECIAL SATURATION POLICIES

- 6.1 The Licensing Authority will not take 'market need' into account for a particular type of premises in its area when considering a licence application. This is a matter for planning development control and the open market.
- 6.2 The Licensing Authority recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder.
- 6.3 Representations may be received from a responsible authority (see paragraph 5.8) or interested party (see paragraph 7.1) that an area has become saturated with premises making it a focal point for large groups of people. This concentration of premises may create exceptional problems of crime and disorder and public nuisance over and above the impact from the individual premises.
- 6.4 In these circumstances, the Licensing Authority may decide that the application of specific conditions is unlikely to address these problems. It may instead consider refusing new premises licences or club premises certificates if it believes that granting of additional licences would undermine the licensing objectives.
- 6.5 To do this the Licensing Authority will first adopt a “special saturation policy”. For this the Licensing Authority will follow these steps:
- identification of concern about crime and disorder or public nuisance
 - consideration of whether crime and disorder or public nuisance problems are arising and are being caused by the customers of licensed premises.
 - identifying the area from which problems are arising and the boundaries of that area. (Alternatively, the risk factors may be such that the area is reaching a point when a cumulative effect is imminent. Evidence of anti-social behaviour from Crime and Disorder Reduction Partnerships and noise disturbance from environmental health officers will be taken into account)
 - consultation with those specified in section 5(3) of the Act
 - subject to that consultation, inclusion of a “special saturation policy” about future premises licence or club premises certificate applications from that area within the terms of this licensing policy
 - publication of the “special saturation policy” as part of the statement of licensing policy required by the Act
- 6.6 Where a “special saturation policy” is adopted the application would normally be refused. Applicants will need to demonstrate in their operating schedules why the operation of the premises would not add to the cumulative impact

already being experienced. Where representations are received, however, the onus will also be on the objector to provide evidence that the addition of the premises in question would produce the cumulative impact claimed. The impact will be different for premises with different styles and characteristics.

- 6.7 The Licensing Authority may approve licences that are unlikely to add significantly to the cumulative impact, e.g. restaurants, theatres etc. Departures from the “special saturation policy” may be made and the Licensing Authority will always consider the circumstances of each individual application on its own merits.
- 6.8 The adoption of a “special saturation policy” does not relieve responsible authorities or interested parties of the need to make a relevant representation before the Licensing Committee.
- 6.9 Once adopted, special saturation policies will be reviewed regularly to assess whether they are still required.
- 6.10 A “special saturation policy” will not be used as a ground for revoking an existing premises licence or certificate when representations are received about problems with those premises. The “special saturation policy” will also not impose any trading hours, terminal hours or quotas (number or capacity of premises) as this would remove regard to the individual characteristics of the premises concerned.
- 6.11 Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These include:
- Positive measures to create a safe and clean town centre environment in partnership with local businesses and residents, transport operators and other departments of the local authority
 - Power of local authorities to designate parts of the district as alcohol-free areas
 - The confiscation of alcohol from adults and children in designated areas.
 - Police enforcement of legislation concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
 - The prosecution of any personal licence holder or member of staff at premises that are selling alcohol to people who are either drunk or under-age
 - Police powers to close any licensed premises or temporary event immediately for up to 24 hours, on grounds of disorder or excessive noise emanating from the premises.
 - The power of the Police and other responsible authorities or an interested party to seek a review of the licence or certificate in question.
- 6.12 Orders made by the Licensing Authority under the Criminal Justice and Police Act to control the drinking of alcohol in the streets, (Designated Public Places Orders) may be reviewed as part of the licensing policy review. Following a successful application for a review of a licence (see section 7), the Licensing Authority may decide to investigate whether a DPPO under the Police and Criminal Justice Act 2001 should be made to control the drinking of alcohol in

public spaces in the area surrounding a premises. Where the Licensing Authority occupies or manages a premises, or where premises are managed on its behalf and it licenses that place for alcohol sales, the DPPO (as amended by the Violent Crime Reduction Act 2006) will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be the subject to the DPPO at all other times. This will allow local authorities to promote community events whilst still using DPPOs to tackle the problems of anti-social drinking.

7. REPRESENTATIONS, REVIEWS AND APPEALS

- 7.1 Interested parties, responsible authorities or club members (for club premises certificates only) may make representations (in opposition or in support) to the Licensing Authority in writing on any application for grant, variation or for the review of a premises licence or club premises certificate.

Interested parties are defined as:

- A person living in the vicinity of the premises in question
- A body representing persons living in the vicinity
- A person involved in a business in the vicinity of the premises
- A body representing persons involved in such a business
- Members of a Licensing Authority ie HBC Councillors

When determining “in the vicinity” the Licensing Authority will consider whether a resident or a business would be directly affected by the carrying on of licensable activities on the premises concerned.

- 7.2 If the Licensing Authority determines that the representations are relevant then a hearing will be held to consider them. In determining an application the Licensing Authority will give the appropriate weight to:

- The steps that are necessary to promote the licensing objectives;
- The representations (including supporting information) presented by all the parties;
- The Act
- The Guidance issued under section 182 of the Licensing Act 2003
- Its own Licensing Policy

- 7.3 The Licensing Authority can only review a licence or certificate where it is alleged that the licensing objectives are not being met. The Licensing Authority will then hold a hearing to consider the merits of an application where the representation is considered relevant as defined in section 51 of the Act. The licence holders and objectors will be informed of the hearing protocol and will be invited to attend such hearings to present their arguments. Hearings will be held promptly so that the issue can be dealt with efficiently and effectively.

- 7.4 Before arrangements for a review are initiated, authorised officers (licensing officers or officers of the responsible authorities) will make every effort to consult with the review applicant and licence holder in an attempt to resolve any issues informally.

7.5 Following a Review Hearing the Licensing Authority may:

- modify the conditions of the licence/certificate
- exclude a licensable or qualifying club activity from the scope of the licence/certificate
- remove the Designated Premises Supervisor (premises licence only);
- suspend the licence/certificate for a period not exceeding three months
- revoke the licence/withdraw the certificate

7.6 Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through a premises being used in connection with crime, then revocation of the licence (even in the first instance) will be seriously considered.

7.7 The Act contains provision for appeals by aggrieved parties against decisions made by the Licensing Authority. Appeals must be made to the Magistrates' Court for the area in which the premises is situated. For personal licences the appeal must be made to the Magistrates' Court for the area in which the local authority's decision was made.

7.8 The rights of appeal and reasons for the decision(s) taken by the Licensing Authority will be provided to all parties concerned with any licensing decision. The decision will have regard to the Licensing Authority's licensing policy, statutory guidance, regulations and the Act itself.

8. ENFORCEMENT

8.1 The Licensing Authority has established working arrangements with the responsible authorities on enforcement issues. This enables more efficient deployment of local authority staff and other authorised officers. The aim of these arrangements is to target higher risk premises whilst providing a lighter touch in respect of premises which are well run. Inspections of licensed premises will be undertaken when and if this is judged to be necessary.

8.2 Where information is received from the Police regarding a premises closure then the Licensing Authority may hold a Review Hearing.

9. OFFENCES

9.1 The Act sets out a number of offences, proceedings for which may be instigated by the following:

- The Licensing Authority
- The Crown Prosecution Service
- In the case of an offence under section 146 or 147 (sale of alcohol to children), by the local Hampshire Trading Standards Dept.

9.2 Enforcement action instigated by the Licensing Authority will have regard to the Council's Policy on Regulation and Enforcement.

10. EQUAL OPPORTUNITIES

- 10.1 The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2 The Protected Characteristics are, Age, Disability, Gender reassignment, Marriage and civil partnership, Pregnancy and maternity, Race, Religion or belief, Sex and Sexual orientation
- 10.3 The local authority may assess and consult on the likely impact of proposed policies on equality and it may monitor policies for any adverse impact on the promotion of equality, and may publish the results of such consultations, assessments and monitoring.
- 10.4 It is the Licensing Authority's policy that nothing within this statement of licensing policy will undermine the right of any individual to apply for any licence or authorisation provided for under the Act. Equally, nothing within this statement of licensing policy will undermine the right of any individual to make representation(s) on an application or to seek a review of an existing licence or certificate. In addition, no applicant or licence holder will be disadvantaged by conditions or requirements which are not relevant to their application or to their licence or to the four licensing objectives.

11. DATA PROTECTION

- 11.1 The Licensing Authority may use the information submitted on any application form for any licence(s) or permission(s) provided for under the Act for the purpose of its statutory function(s) under the Act.
- 11.2 All applicants have the right to ask for a copy of the information that the Licensing Authority holds about them under the Act.
- 11.3 By making an application to the Licensing Authority for any licence or permission under the Act, all applicants consent to our processing sensitive personal data about them where this is necessary and lawful.
- 11.4 The Licensing Authority will maintain registers of all matters detailed in Schedule 3 of the Act and any other information prescribed by regulations. Any person is permitted to obtain a copy of this information from the Licensing Authority. Public registers may be available via the Council's website.

12. OPERATING SCHEDULES

- 12.1 The Operating schedule forms part of the completed application for a premises licence. It should include information which is necessary to enable

any responsible authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. Specific requirements on what the schedule should contain and how it should be presented are contained in sections 17 and 71 of the Act and in regulations. General policies relevant to each of the licensing objectives are detailed below.

- 12.2 In order to minimise problems and the necessity for hearings, the Licensing Authority encourages applicants and clubs to consult with the responsible authorities when operating schedules are being prepared. The Licensing Authority will provide guidance to applicants to aid this process.
- 12.3 Any individual preparing an operating schedule can volunteer any additional measures intended to be taken to promote the licensing objectives. It should be noted, however that if incorporated into the licence or certificate as a condition, then these measures will become enforceable under the law. A breach of such a condition could give rise to prosecution.

Prevention of Crime and Disorder

12.4 The following are offences under the Act:

- To sell or supply alcohol to a person who is drunk.
- To knowingly allow disorderly conduct on licensed premises.
- For the holder of a premises licence or a Designated Premises Supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported or acquired.

12.5 To promote the prevention of crime and disorder, the range and scope of control measures will depend on a number of factors including the:

- nature and style of the venue
- activities being conducted there
- location of the premises
- anticipated clientele of the business involved
- past record of the premises

12.6 The applicant may indicate in the operating schedule the steps he/she proposes to prevent crime and disorder. Where appropriate and necessary, the Licensing Authority will consider attaching conditions to licences and certificates to prevent crime and disorder. These may be drawn from the model pool of conditions relating to the prevention of crime and disorder objective (Annex D in the Guidance issued under section 182 of the Licensing Act 2003).

12.7 It is recognised that club premises may operate under their own codes of discipline to ensure the good order and behaviour of members.

12.8 The Licensing Authority will expect licence holders to have adequate management practices in place as well as suitable training for staff, to ensure that sales of alcohol are not made directly or indirectly to persons under the

age of 18. Practices also need to be in place to ensure that sales are not made to persons who are either drunk or who may commit crime and disorder.

- 12.9 The government has recently published its Alcohol Harm Reduction Strategy and later intends to produce a code of good practice for industry. The Licensing Authority strongly encourages all retailers of alcohol to sign up to this code to receive accreditation. It is envisaged that adherence to the code could be taken into account when there is a complaint made against a premises licence or club premises certificate.
- 12.10 The Licensing Authority will also expect licence holders to be aware of the misuse of drugs and to take all reasonable steps to prevent the entry of drugs into licensed premises. Licence holders must take appropriate steps to prevent drugs being supplied within the premises.
- 12.11 The Licensing Authority will expect licence holders of venues likely to be affected by alcohol or drug abuse, to be familiar with the guidance issued by the British Institute of Inn keeping on drug awareness. Licence holders should also take account of the recommendations of the appropriate BIIAB training handbooks. The Licensing Authority will also expect the relevant licence holders to follow the recommendations issued by the Home Office on the safety of club premises.
- 12.12 Licence holders must make themselves aware of the detail of the new mandatory conditions that came into force in April and October 2010. These conditions include:
- new controls on irresponsible promotions (such as certain types of drinking games, provision and promotion of discounted or free alcohol, alcohol as prizes etc)
 - the provision of free tap water
 - age verification procedures
 - provision of alcohol in smaller measures
- 12.13 Where there are local concerns about the potential for drunkenness and disorder, the Licensing Authority may agree local voluntary arrangements in respect of, for example, the discounting of the costs of drinks and the promotion of sales where drinks are offered at low cost. Conditions may also be added to premises licences where irresponsible promotions are, for example, affecting the promotion of the licensing objectives. Each case will be judged on its own merits.

Public Safety

- 12.14 The safety of members of the public must be protected when they visit licensed premises Applicants must demonstrate that they have considered and put into effect, measures to protect:
- customers
 - the interests of premises in the vicinity and

- members of the public (including those living in the vicinity)

12.15 The Licensing Authority will expect operating schedules to address the possible risks to public safety and to detail how the premises will be properly managed and maintained to ensure public safety at all times.

12.16 Where appropriate the Licensing Authority will consider attaching conditions to licences and certificates to promote public safety. These may be drawn from the 'pool of conditions' contained in the Guidance issued under section 182 of the Licensing Act 2003.

Prevention of Public Nuisance

12.17 The Licensing Authority will exercise its responsibilities to prevent public nuisance being caused by licensable activities. Public nuisance can range from low level nuisance affecting a small number of people to widespread disturbance affecting the whole community. Public nuisance associated with licensable activities may arise from a range of causes including noise, odour, light emission and litter. To prevent public nuisance the Authority will seek to ensure that:

- effective and proportionate controls are in place to prevent public nuisance arising from any licensed activity
- any evidence of public nuisance brought to its attention through licence reviews is considered and where necessary the Licence amended or revoked to reduce the likelihood of further nuisance
- where it is in the public interest, enforcement action is taken in respect of any contraventions of licensing conditions that give rise to public nuisance

12.18 The Licensing Authority's decisions will be evidence based. Account will be taken of any evidence brought to its attention by responsible authorities or interested parties.

12.19 *Noise* - Licensable activities may create noise. In some cases this may lead to changes in the character of a location and to occasional increases in noise and disturbance. This must be balanced against the other objectives of the Licensing Act.

A range of reactive statutory provisions are already available to responsible authorities to deal with certain types of nuisance in some circumstances. The Environmental Protection Act 1990 provides remedies in respect of statutory nuisance arising from noise, odour and light in certain circumstances. In respect of nuisance arising from commercial premises, a number of defences are available. In addition, the provisions of Part 8 of the Licensing Act 2003 enable a senior police officer to close down immediately (for up to 24 hours) any licensed premises or temporary events that are causing a public nuisance. Similar powers under the Anti-social Behaviour Act 2003 are available to the Chief Executive of the relevant local authority or to an authorised Environmental Health Officer. The provisions of the Licensing Act, however, provide an opportunity to seek to prevent nuisance from occurring in the first place. This can be achieved by applicants planning and implementing

appropriate strategies to prevent nuisance at the outset by including relevant preventative measures within their operating schedule.

12.20 *Sources of Noise* – Public noise nuisance can be caused by a variety of different noise sources associated with licensable activities. These include:

- Noise from music, singing and speech originating from inside or outside a building
- Activities within gardens and play areas
- Rowdy behaviour
- Use of car parks and access roads
- Delivery, collection and storage activities
- Staff activity
- Cleaning and washing-up activities
- Plant, machinery and equipment

12.21 The factors that are most important in determining whether the noise impact is likely to be significant in terms of public nuisance include:

- Loudness of the noise
- Character of the noise
- Time of the day when the noise is created. (Noise created during the late evening or night time is much more likely to be a problem)
- Frequency and duration of the noise
- Proximity of residential or business premises where occupants may hear the noise
- Existing noise levels in the area

12.22 Any activity including public entertainment and eating or drinking on or near the premises has the potential to impact adversely on the surrounding area. The impact of noise generated by these activities and by customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

12.23 *Control of noise* – A range of specific control measures are available for reducing noise and preventing public nuisance. These control measures can be grouped into the following broad strategies:

- Engineering controls e.g. noise control for plant and equipment, sound insulation of buildings
- Regard for the location of noisy premises relative to the location of noise sensitive sites
- Administrative controls eg hours during which amplified music may be played, sound limiting devices, management and supervision
- Providing information e.g. information to direct clientele to leave quietly

12.24 Modest levels of noise created inside a building can usually be attenuated by traditional building structures provided that simple measures are taken such as closing doors and windows. High levels of noise such as that generated from amplified music or associated with live performances or discos may require buildings to be modified to prevent the escape of sound energy. .

12.25 Noise generated outside buildings is much more difficult to control. If acceptable then administrative controls, to limit the times of activity and the provision of information to encourage dispersal will be appropriate.

12.26 A number of specific issues that pose particular risk of public nuisance are identified below:

- *Garden areas and outdoor smoking areas*

The beer gardens of public houses are an asset to the premises. Similarly, the provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. Late at night, however the use of these same tables and chairs can contribute to noise problems as they can encourage patrons and passers by to loiter rather than to disperse.

The use of tables and chairs for recreation and refreshment on the public highway requires a separate licence issued by the local authority under the provisions of the Highways Act 1980. Where appropriate, time restrictions may be placed on the use of outside chairs and beer gardens to prevent adverse impacts on the safety and amenity of local residents.

- *Amplified music*

Amplified music poses particular risks of nuisance if it is loud or is dominated by low (bass) frequencies. In respect of potential public noise nuisance from public houses, clubs, hotels' discotheques, restaurants, cafes, community halls and similar premises, account should be taken of the recommendations set out in guidance documents such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, March 2003 (Institute of Acoustics).

To establish the risk of public noise nuisance the operating schedule will need to set out the type and frequency of activities that the licensed premises intends to carry out. The control measures that need to be implemented to prevent public nuisance may include:

- Improvements in the level of sound insulation provided
 - Provision of lobbied entrances
 - Provision of a mechanical ventilation or air conditioning system
 - Management methods for controlling the volume of noise
 - Use of a house sound system only
 - Use of devices to automatically limit noise volume in the premises
 - Design and location of the loudspeakers
 - Controls over the times music is played
- *Outdoor events involving music*

These types of events pose particular risks of public nuisance. Account should be taken of the guidance, for example, in the Noise Council code of practice on environmental noise at concerts.

- *Plant and equipment*

Fixed plant and machinery such as refrigeration equipment, air conditioning plant and cooking extraction systems, if not properly located, designed, constructed and maintained can cause noise disturbance. The noise produced may not be a problem during the early evening but may cause disturbance to local residents later at night when they are trying to sleep. Applicants proposing to operate such plant and machinery should demonstrate in their operating schedules that these noise sources have been properly assessed and significant noise abated.

- *Structurally attached*

Where premises that are intended to be used for loud music are structurally attached to residential or other sensitive uses these may pose difficult engineering problems in preventing structurally transmitted noise problems. Generally, these types of use will be unacceptable, unless proper engineering solutions have been incorporated.

- *Clientele leaving premises*

The Licensing Authority encourages operators of popular venues (including takeaways), which attract queues, to help reduce disturbance to local residents. This can sometimes be achieved through the use of door supervisors or by ensuring that the direction of the queue is as far away as possible from residential accommodation. Applicants should also address in their operating schedules practical measures to control the disturbance from patrons leaving the premises, particularly after midnight.

- *Odour*

Public odour nuisance can be caused by a variety of activities associated with licensed premises. This includes:

- Inadequate storage of food waste
- Cooking activities
- Cooking extract systems

Particular care is needed in the design of extract systems serving cooking areas. Account should be taken of the guidance contained within the DEFRA Guidance on the control of odour and noise from commercial kitchen extract systems.

- *Light*

Public nuisance may arise from artificial illumination used in open areas such as gardens. Lighting should not be permitted to create excessive illumination at neighbouring property and should be shielded and directed to avoid glare. Account should be taken of guidance, for example, that issued by the Institute of Lighting Engineers.

- *Smoking and Litter*

It is illegal to smoke in an enclosed or substantially enclosed public or work place. Whilst smoking is not a regulated activity under the Act, the volume of patrons smoking outside premises in gardens and purpose built shelters has increased since these provisions came into force. Premises staff will need to have regard to the additional noise from patrons who have moved outside to smoke and should introduce suitable controls to combat this. Whilst premises staff may not be held wholly responsible for the actions of its customers once they leave a venue, those using gardens or who intend to return to the premises, do remain the responsibility of the site.

Premises staff should also take particular steps to combat litter from smoking as this will give rise to complaints.

12.27 The operating schedule provides the opportunity for applicants to demonstrate that they understand the risks to public nuisance posed by their intended application and have identified appropriate means for controlling these risks. The Licensing Authority may attach conditions to licences that are consistent with the operating schedule.

The Licensing Authority will expect operating schedules to take account of the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided and the needs of the local community. The Licensing Authority encourages applicants to consider how they intend the licensed premises to remain a “good neighbour” both to residents and to other businesses.

The complexity and detail of this part of the operating schedule will depend upon the level of risk that public nuisance will be caused. Where there is a high risk of public nuisance, the operating schedule may need to be supplemented by a technical acoustic report.

Where appropriate the Licensing Authority will consider attaching conditions to licences and certificates to prevent public nuisance. These may be drawn from the model pool of conditions relating to the prevention of public nuisance in the Guidance issued under section 182 of the Licensing Act 2003.

Protection of Children from Harm

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

12.29 It is unlawful under the Act:

- To allow an unaccompanied child (under 16 years old) to be present on premises which are “exclusively or primarily” used for the supply and consumption of alcohol there, (e.g. public houses) or
- To allow an unaccompanied child to be present on premises used for the supply of alcohol for consumption there between midnight and 0500hrs, (e.g. premises such as restaurants).

Both these offences relate to the times when a premises is open for business.

12.30 Where appropriate the Licensing Authority will consider attaching conditions to licences and certificates to protect children from harm. These may be drawn from the model ‘pool of conditions’ relating to the protection of children from harm in the Guidance issued under section 182 of the Licensing Act 2003.

12.31 Specific attention will be necessary in the following situations:

- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- Premises with a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- Where entertainment or services of an adult or sexual nature is provided. This will include topless bar staff, striptease, lap dancing, tabletop or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

12.32 When deciding whether additional conditions should be imposed the Licensing Authority will consider each application on its own merits. In such cases, it may, in exceptional circumstances, impose a complete prohibition on the admission or presence of children. The type of controls the Licensing Authority may impose include:

- Limitations on the hours when children may be present
- Limitations on the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children might be given access
- Age limitations
- Requirements for accompanying adults and
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

12.33 Where there is provision of entertainment specifically for children (e.g. children’s disco) or where the children themselves are performers, the Licensing Authority will normally require the presence of sufficient adults to control the access and egress of the children and to ensure their safety.

- 12.34 Conditions prohibiting the admission of children to any premises may be imposed. This will remain a matter for the discretion of the licence holder. Venue operators seeking premises licences and club premises certificates may volunteer such prohibitions and restrictions in their operating schedules if they have determined that the presence of children is undesirable or inappropriate.
- 12.35 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks seeks to ensure that alcoholic drinks are packaged and promoted in a socially responsible manner and only to persons 18 years old or older. It plays an important part in protecting children from harm because it addresses the naming, marketing and promotion of alcoholic products sold in licensed premises in a manner which may appeal to or attract minors. The Licensing Authority commends this code.
- 12.36 Hampshire Trading Standards, in its agreed protocol with Hampshire Constabulary, is primarily responsible for enforcing under-age sales from the off-licensed trade. Where appropriate, applicants should consider implementing steps to prevent such illegal sales taking place. Further guidance is available in “Responsible Retailing of Alcohol: Guidance for the Off-Trade,” produced by the Association of Convenience Stores, the British Retail Consortium and the Wine and Spirit Association. This emphasises the importance of control measures such as staff training, good procedures and management, “No ID, No Sale” policies, in-store signage, refused sales logs and the sensible siting of drinks.
- 12.37 Where appropriate, the Licensing Authority expects licence holders to include in their operating schedule arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.
- 12.38 Where the exhibition of films is permitted, the authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be fully met.
- 12.39 For specialist film festivals, where it is desired to show films not classified by the BBFC, the Licensing Authority may classify the films concerned. The Licensing Authority may use the guidelines published by the BBFC to do this.

The Licensing Authority welcomes comments and observations on this Policy. These should be addressed to:

The Licensing Officer
Havant Borough Council,
Civic Offices, Civic Centre Road
Havant, Hampshire PO9 2AX

Tel: 023 92446660

Fax: 023 92446594

Email: licensing@havant.gov.uk

APPENDIX 1

SCHEDULE OF DELEGATIONS

Matter to be dealt with	Licensing Committee or Sub-Committee	Authorised Officer
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no 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 or vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police objection to a temporary event notice	All cases	
In cases where the Magistrates' Court has determined the licence on appeal		All cases

Application for a minor variation to a premises/club premises certificate		All cases
Application by holder of a community premises licence to disapply the requirement for a DPS		All cases

APPENDIX 2

LICENSING CONTACTS

Havant Licensing	Licensing Team Havant Borough Council, Civic Offices, Civic Centre Road Havant, Hampshire PO9 2AX Telephone: 023 92446660 Fax: 023 92446594 licensing@havant.gov.uk
Local Police	Havant Police Station Civic Centre Road Havant Hampshire PO9 2AN Tel: 0845 045 45 45 havant.licensing@hampshire.pnn.police.uk
Police Headquarters	HQ, West Hill, Winchester SO22 5DB Tel: 0845 045 4545 Fax: 01962 871204
Fire	Hampshire Fire and Rescue Service Service Delivery (Community Safety Delivery) Protection Department Southsea Fire Station Somers Road Southsea Hampshire PO5 4LU Tel: 02392 855180
Environmental Health Public Nuisance (noise, odour etc)	Environment Team Havant Borough Council Civic Offices, Civic Centre Road Havant, Hampshire PO9 2AX Tel: 023 9244 6670 Fax; 023 9244 6659 ehenvironment@havant.gov.uk
Planning	Head of Planning & Development Havant Borough Council Civic Offices Civic Centre Road Havant Hampshire PO9 2AX

British Beer & Pub Association	Market Towers, 1 Nine Elms Lane, London SW8 5NQ Telephone: 020 7627 9191 Fax: 020 7627 9123 www.beerandpub.com
The Portman Group	7-10 Chandos Street, Cavendish Square, London W1G 9DQ Telephone: 020 7907 3700 Fax: 020 7907 3710 www.portman-group.org.uk
British Institute of Innkeeping	Wessex House, 80 Park Street, Camberley GU15 3PT Telephone: 01276 684449 Fax: 01276 23045 www.bii.org

APPENDIX 3

Customer & Equality Impact Assessment




Once you have agreed the scope of this assessment within your team, Please use this template inline with the CEIA Guidance notes.

Use the links to understand more about Equality issues locally and ensure you take any opportunity possible to eliminate discrimination, advance equality of opportunity and foster good relations between those with a protected characteristic and those who do not share it within your assessment. Click for HBC [Equality Profile 2009](#)

SECTION 1 – Policy impact details

1. Responsible Officer (author)	Deputy Environmental Health Manager
2. Is this assessment for EHDC or HBC or joint?	HBC
3. Name and brief description of the service/policy/function to be assessed	Licensing Policy under Section 5 of the Licensing Act 2003 Sets out HBC's policy in respect of its licensing functions for the next 3 years.
4. Objectives of the service/policy to be assessed	Sets out the policy on how HBC will promote the licensing objectives in respect of its licensing functions under the Act i.e. issue of licences for the sale of alcohol, provision of entertainment and late night refreshment.
5. Scope of this assessment	Functions under the Licensing Act 2003 only: The Act sets out four licensing objectives which must be taken into account when a local authority carries out its functions. They are: <ol style="list-style-type: none"> 1. the prevention of crime and disorder, 2. public safety, 3. prevention of public nuisance, and 4. the protection of children from harm
6. Has Section 2 been attached?	Yes
7. Have you considered any complaints data?	No complaints received in last 12 months concerning licensing service
8. Have you undertaken any consultation or engagement?	Yes, consultation is taking place with the statutory consultees identified in the 2003 Act. Consultation is also taking place with Borough Councillors and EHDC Licensing Team.

9. Consultation/ engagement outcomes	<p>Awaited</p>
10. From section 2 and the above answers are there concerns that the policy could have a differential (either positive or negative) impact?	<p>There are no concerns about the policy having a differential impact</p>
11. Do you need to seek more information to make a more informed decision? (Benchmarking with other LA's or focus groups etc)?	<p>No</p>
12. Reasons for any impact and any changes considered to the Policy/Service	<p>The flexibility provided by Licensing Act 2003 has been viewed by some as a potential vehicle for increased alcohol consumption with the accompanying health implications. This may impact on particular groups of our society such as young people.</p> <p>The new licensing provisions were designed to have a positive impact on most groups in our society, namely to:</p> <ul style="list-style-type: none"> • provide improved regulation for businesses and greater choice for consumers. • reduce alcohol related crime and disorder, under-age drinking, public nuisance and anti-social behaviour. • encourage a European café style culture. • encourage live music and cultural events in the wider community.
13. Are there opportunities to better promote service/policy inclusion?	<p>The statutory consultation process goes a considerable way to promote better policy inclusion. During this review of licensing policy we are working with our partners at EHDC to encourage consistency in decision making across a wider area.</p>
14. Assessment outcomes and improvement plan	<p>Any individual has the right to apply for a licence, make representations about an application or to apply for a review of licence. Each will be considered on its own merits and according to statutory requirements of the Licensing Act 2003.</p> <p>Staff are trained in equality and diversity and are aware of their responsibilities to apply consistency and fairness and to avoid making prejudgements when arriving at their decisions.</p> <p>Licensing Committee members continue to receive training on the application and the context of the licensing act including equal opportunities issues.</p>

15. Monitoring timetable of this report and the improvement plan	Review every 3 years.
16. Which action plan will these actions be added to and who is responsible for that plan?	The Licensing Committee retain responsibility for this policy.
Please ensure that you have provided as much evidence as possible to support the responses you have given.	
Additional Comments	
Signed: 	(Completing Officer who is responsible)
Signed: 	(Manager with overall responsibility)
Signed: 	(Critical Friend, from another service)
Date: 26 th November 2010	
(please date the sign off and send to the Corporate Equality Group via caren.ransom@east.hants.gov.uk or caren.ransom@havant.gov.uk for quality control)	

SECTION 2 - Screening Template

ISSUE	GROUP	IMPACTS				REASONING & EVIDENCE
		+ve	-ve	?	No	
GENDER	Men	√				Please see paragraph 12 above where impacts are identified
	Women	√				
GENDER REASSIGNMENT	Transsexual / Transgender	√				
PREGNANCY & MATERNITY	Pregnancy & Maternity			√		
AGE (You may alter age	Over 80			√		
	Over 65			√		

ISSUE	GROUP	IMPACTS				REASONING & EVIDENCE
		+ve	-ve	?	No	
ranges if appropriate)	22-64	√				
	16 to 21	√				
	Under 16	√				
RACE (You may need more detail here e.g. a specific ethnic group)	Asian or Asian British People	√				
	Black or Black British People	√				
	Chinese or Chinese British People	√				
	Gypsies/Travellers			√		
	Irish People	√				
	Mixed Race People	√				
	People from other minority ethnic groups	√				
	White British People	√				
	White European or Other People	√				
DISABILITY & HEALTH (You may need more detail here e.g. type of sensory impairment).	Learning Disability			√		
	Long-Term Health Problem			√		
	Mental Illness			√		
	Physical Impairment			√		
	Sensory Impairment			√		
SEXUALITY	Bisexuals	√				
	Gay Men	√				
	Heterosexual	√				
	Lesbians	√				
RELIGION & BELIEF	Atheist, Agnostic or Other belief	√				
	Faith Groups	√				
OTHER (You may add additional groups here).	Caring Responsibilities			√		
	Living in rural area	√				
	Low Income			√		
	Marital Status			√		
	On Benefits/unemployed			√		
	Poor Literacy &/or Numeracy			√		