

Licensing Statement of the Licensing Authority for the Swindon Borough Council area, Licensing Act 2003

About this Statement

This document is a formal statement of the policy adopted by the Licensing Authority for the Swindon Borough Council area, setting out how it will secure the 'licensing objectives' as defined by the Act. The Statement is restricted by law to dealing *solely* with these licensing objectives.

The 'licensing objectives' are defined by the Act as

- (a) **the prevention of crime and disorder;**
- (b) **public safety;**
- (c) **the prevention of public nuisance; and**
- (d) **the protection of children from harm**

Exclusions Excluded from the scope of the Licensing Act 2003 and from this policy are e.g. the collection of tax revenues, employment rights and working times, discrimination against people with disabilities etc. These and similar matters are of great importance but they are covered by other legislation. The Licensing Act 2003 does not substitute for any of these legal controls. Race relations matters are addressed by the Race Relations 1976, as amended, and are referred to in the Swindon Borough Council race equality scheme.

The Licensing Act is only one of the mechanisms available to regulate the leisure, hospitality and retail economy and to maintain public order. Planning controls, partnership schemes, routine enforcement of the criminal law by the police and the exercise of separate powers to restrict street drinking are examples of other legal frameworks, which work together with licensing controls.

This document does not set out an overview of all shades of opinion. It is a coherent statement of Council policy, which has been produced after careful consideration of many different and sometimes sharply opposing views. It adopts a single, clear position, having taken into account all of the suggestions put forward by interested parties. It is written for Swindon, so is not identical with the policy of any other local authority, even though there are many areas of common ground.

Statutory guidance

This policy was drawn up within the legal constraints dictated by the July 2004 'Guidance issued under section 182 of the Licensing Act'. Licensing authorities are required to follow this guidance, which has been produced by the Secretary of State for Culture, Media and Sport.

Our general approach

1. Swindon Borough Council is committed to building and maintaining a diverse, thriving, vibrant and sustainable leisure and hospitality economy. We value the contribution which this sector of the economy makes to the economic well being of Swindon and to the quality of life of those who live here and those who visit us.
2. This Licensing Statement takes account of the need to regulate the carrying on of licensable activities which take place on licensed premises, qualifying clubs and temporary events in order to limit, within the terms of the 2003 Act the potentially adverse impact of those activities on the public living, working or engaged in normal activity in the area concerned. The Licensing Committee cannot use the Licensing Act 2003 for any purpose not defined in the Act as a 'licensing objective'.
3. This policy is not capable of being a universal remedy for all the various forms of anti-social behaviour or other problems associated with licensable activities. It does however consider all such issues at licensed premises and in the vicinity of licensed premises. In situations where a licence holder really would not have been able to do anything that might have prevented an undesirable incident, the Licensing Authority will not hold the licence holder to account. Where it is plain though that they are indirectly or directly partly responsible for what has happened (perhaps by employing unsuitable people or exercising poor standards of management), then the Licensing Authority will make use of its powers under the Licensing Act 2003, where they offer a remedy.
4. Unless the legal framework says otherwise, the content of this Licensing Statement applies to the consideration of applications for provisional statements and club premises certificates and to variations to premises licences and club premises certificates, in the same way as it applies to applications for premises licences.
5. Those making representations to committee may call on expert witnesses to support their case, if they wish.
6. The broad expectations of the Licensing Authority for 'typical and uncomplicated' premises in the Take Aways, Village Halls and Off Licences categories are well described by the simple off the peg templates that Swindon Borough Council has produced to assist proprietors of these businesses. These templates appear together with this Licensing Statement but those documents are not in themselves part of this Statement and they may be reviewed and updated independently.

7. Swindon Borough Council will not use its Licensing powers to dictate whether there is a market need for additional licensed premises. That will always be a planning and/or a business decision. The Licensing Authority does not impose a ceiling on the number of licensed premises overall nor does it have a quota system for broad classes of licensed premises, such as public houses.
8. The Licensing Authority will not downgrade its commitment to the Licensing Objectives to assist a failing venue, even if that means that the business ceases trading.
9. The onus is placed on applicants for premises licences other than by the conversion route to demonstrate in their operating schedules that they are proposing appropriate steps to secure the licensing objectives. In the absence of such evidence, applicants run the risk that representations will be made, that would lead the Licensing Committee to refuse the application or to impose conditions of a more prescriptive nature.
10. The bodies and individuals entitled to make representations about Licensing applications evaluate the operating schedule, taking into account factors such as who will use the building, the activities which will take place there how the details of that use will evolve during the course of the day. The responsible authorities also monitor compliance with the requirements attached to a licence, which will often be more detailed than those attached to Planning permissions. Where those requirements are not met, various parties can make representations to the Licensing Authority. One possible outcome of such representations would be the revocation (cancellation) of the licence.
11. Where no representations have been made, the power to impose conditions exists only when the Licensing Act 2003 makes them compulsory or when they are taken from the Operating Schedule proposed by the applicant. Where representations are made, the Licensing Committee can respond by imposing additional conditions.
12. In considering representations regarding an operating schedule, the Licensing Committee will pay particular attention to considering who the likely customers will be, what they will do while they are on the premises and what they are likely to do when they leave. The impact of premises where most of the clientele are young and where customers spend their time standing up in large crowds will be quite different from premises of the same size, where most of the customers are of mature years and are sat down. These differences may be even greater, where premises of the first kind are clustered together.

Concentrations of licensed premises

1. In some circumstances, licensing authorities are permitted to introduce a 'cumulative impact policy' covering specific target areas. In the words of the statutory guidance, this is appropriate only in town centres and city centres "where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise".
2. The night time leisure economy in Swindon is not entirely free of disorder problems but relative to the small number of areas throughout the country where the situation is seriously out of control, we are fortunate. There is nevertheless an unusual concentration of licensed premises in Bridge Street and Fleet Street and this area is generating social problems.
3. Where there is no cumulative impact policy, there is no presumption against the grant of new licences. Nevertheless, the presence of other licensed premises in the vicinity of premises for which an application has been made and the future operation of premises which are due to open in the vicinity are matters which may be raised by those making representations and if those representations are pertinent to the licensing objectives, they will have a bearing on the decision making process.
4. Applicants should consider this point carefully when there is already a predominance of businesses which are mainly geared to the sale of alcohol and which are designed to appeal to the younger end of the market. In the case of national chains, evidence as to the character of premises already operating elsewhere under a particular brand may be taken as relevant.
5. In any consideration of the introduction of a 'cumulative impact policy', the Licensing Authority will rely on the evaluation of evidence and a balanced assessment of outcomes. In particular, such consideration will only follow the presentation of concrete evidence of severe social disruption by crime and disorder or nuisance, from a responsible authority or from residents' representatives. In making that judgement, the question will be whether part of the Swindon area should be seen as a trouble 'hot spot' from a national perspective.
6. Any discussion of the possible introduction of such a policy will also look at the alternatives to such a policy, to see if they might either achieve the same objective or be a complement to such a policy.
7. If it can be shown that factors such as the availability of taxis or the number and location of late night mobile food traders are important contributors to reported problems, the Licensing Authority will refer those concerns to other parts of Swindon Borough Council and to our partners (including the New Swindon Company), so that a better balance can be achieved between

placing limits on commercial activity and dealing with underlying environmental and transport issues. The Licensing Authority notes that there are substantial benefits to having queue wardens at taxi ranks and town centre bus stops late at night.

8. Without prejudice to any other course of action open to them, the Wiltshire Constabulary shall be entitled to make written representations at any time to the Director of Environmental and Property, concerning any observations, which it may wish to make on the practical link between the available transport infrastructure and the incidence of crime and disorder. If matters are raised, which cannot be easily resolved by discussion and delegated action, they will be referred in the first instance to the Lead Member for Environmental and Property. The Wiltshire Constabulary is further granted the right to insist that any concerns they may have on this subject are put before an appropriate committee of the Council.
9. In evaluating the facts, the Council will rely on objective evidence that crime and disorder or nuisance are occurring at an exceptional level and that these problems would not occur, were it not for the customers of licensed premises in the vicinity. If this is established, then the extent of the area concerned will be identified.
10. Only if it is demonstrated with hard evidence that a 'cumulative impact policy' is necessary and that no lesser measure is likely to have the desired effect, will such a policy be introduced.

A vibrant leisure sector

1. One of the most desirable characteristics of urban centres in terms of reducing disorder and antisocial behaviour is diversity in the provision of leisure and hospitality. Encouraging people of many ages to use the facilities provided challenges the maintenance of a youth ghetto.
2. In line with the Council's commitment to diversity, the Licensing Authority welcomes any general shift away from the provision of leisure premises seen mainly as "places for consuming alcohol", to the creation of businesses, which "also sell alcohol"
3. The Licensing Committee will not stifle any trend of this kind by placing restrictions on the use of premises by children, in response to representations, simply on the grounds that sales of alcohol take place there. Restrictions will be applied only where there are distinct issues such as the provision at a particular time of entertainment of a sexual nature or where the general atmosphere is such as to be unsuitable for children.

4. It is not the Licensing Authority's policy to stifle the development of the leisure and hospitality sector of the economy, just in order to make the task of regulation and enforcement easier.
5. The 'promotion of live music' falls outside the scope of the Licensing Act 2003 but Swindon Borough Council has a strong commitment to the arts and performance, embodied in its cultural strategies. The Licensing Committee will monitor the impact of Licensing regulation on live events by being receptive to any documented representations that this strand of regulation is having a damaging effect on the overall provision of regulated entertainment, and particularly music and dancing. Where it has been demonstrated that such entertainment has declined and that the decline is substantially a result of regulation brought about by the Licensing Act 2003, the committee will consider what administrative or other measures might be taken to rectify the situation, without prejudice to the Licensing Objectives, as set out in the Act.
6. The Licensing Authority will provide an opportunity for officers concerned with tourism and cultural strategies to present reports to the Licensing Committee, on licensing matters. Similarly, an opportunity will be given to provide the Licensing Committee with a briefing on the employment and economic circumstances of the leisure and hospitality industry in Swindon.
7. On a periodic basis, a briefing will be given to the Planning Committee, to inform Members of issues connected with Licensing, which are likely to be of relevance when they make Planning determinations.
8. Where an objector asserts that the addition of new premises alongside existing premises would be an obstacle to the achievement of the licensing objectives, the objector must make the case for such an assertion by producing appropriate evidence. Valid comparisons with actual experience elsewhere would carry particular weight.
9. The Licensing Authority acknowledges that the potential for disorder on the street is much reduced if queuing for entry to premises and competition for facilities such as taxis and fast food can be kept to a minimum. The imposition of staggered closing times would not be in line with the statutory guidance but the Licensing Authority will look favourably on other ways to discourage sudden peaks of pedestrian movement.

The night economy

1. The Licensing Authority does not seek to re-impose a statutory system of controls by operating a blanket 'last admissions' policy.

2. The Licensing Authority embraces the principle that the hours during which licensable activities can take place should be controlled only where there is a good reason for doing so. When considering whether to impose any restriction on opening hours, the Licensing Authority will reflect on the fact that the diversity and location of late night trading facilities and the availability and range of transport options late at night are critical to the dispersal of customers in a trouble free and orderly fashion at the end of the trading session.
3. In considering representations, unless there are exceptional circumstances, the Licensing Authority accepts that licensed shop premises should be free to sell alcohol, for consumption off the premises, at any time of day when they are open for normal business. On the basis of the established trading patterns of some supermarkets, this may result in 24 hour trading in alcohol.

Responsible trading

1. The Licensing Authority's policy is to resist so far as it is within its power to do so the operation of reckless drinks promotions, the effect of which is to encourage uncontrolled drinking and disorderly behaviour.
2. The Licensing Authority does not oppose a commercial arrangement whereby the price of admission to premises also covers the cost of the first drink or arrangements in which a normal serving of wine is offered 'free' with a main meal. The Licensing Authority respects the exercise of normal commercial freedom.

Outdoor events

1. The Licensing Authority considers that outdoor festivals enrich the life of the community and should be facilitated rather than discouraged.
2. Generally speaking, outdoor events occur seldom and usually at the same small selection of locations. Often they have extensive local involvement and therefore enjoy a great deal of goodwill. Such events can bring some inconvenience in the form of noise and disruption but that is generally counterbalanced by the contribution, which they make to the culture and life of the community.
3. Accordingly, appropriate allowances for outdoor events should be made and

the Licensing Authority will not expect of the organisers of such events some of the more exacting limitations, which are appropriate for fixed venues, where events are held on a regular basis. This does not mean that the Licensing Authority will tolerate gratuitous nuisance or inconsiderate behaviour nor will it compromise on public safety.

4. Characteristically outdoor events depend on assembling all the component parts of an entertainment venue on a temporary basis, within a short space of time. Once the process has begun it is anticipated that decisions affecting the venue will have to be taken without time for proper reflection. There is little or no opportunity to try out alternative options in order to establish the best one. As outdoor events are usually short term, it will also be difficult to build up any routine of team working.
5. Unlike the manager of licensed premises who can introduce changes in procedures or in the layout of furniture, in order to improve service delivery in the next week of trading, an event organiser has only one opportunity to get it right and therefore immediate decisions can be critical to public safety.
6. These distinctive features of outdoor events mean that an organiser must possess suitable experience, ability and competence. For larger events, organisers may therefore be expected to submit at an early stage to inquiries about their experience, ability and competence. Alternatively, the organiser can nominate someone with a proven track record to take charge of practical details for them. The Licensing Authority does not consider it right to place undue reliance on bringing legal proceedings, once an outdoor event has gone badly wrong. Large outdoor events carry serious risks and if there are insufficient grounds for confidence that an event will be conducted properly, the Licensing Committee will refuse a licence.
7. It is essential that the detail of an event is planned well in advance. Failure to do so may generate unanticipated problems, insurmountable in the time available. The emergency services and the Licensing Authority will need advance detail of an event in order to ensure that they can play an appropriate role.
8. If an inadequate time has been set aside for the preparation and planning of an event or the skills available to the applicant (either their own or what they are able to call on) are inadequate, that in itself might lead to representations being made to the Licensing Committee, that the Licensing Objectives are endangered. The Licensing Authority has an obligation to protect public safety and reliance on prosecuting the culprits after the event if something goes badly wrong does not provide proper protection. The Licensing Committee will therefore normally be constrained to refuse an application or to scale down an event, where risks identified in formal representations are considered to by the Licensing Committee to be unacceptably high.

9. The extent of the preparatory work needed and the amount of advance notice which is appropriate will vary with the scale and complexity of the event. Applications will be accepted if submitted within the requisite statutory notice period but submission within that period will not be regarded as evidence that the applicant has allowed sufficient time to make proper preparations.
10. Voluntary, community-based groups, which have limited resources, often present events on a smaller scale. Within the limits of ensuring public safety and preventing unreasonable disturbance, the Licensing Authority will adopt a supportive approach. Such an approach is built into the Temporary Event Notice procedure but the Licensing Authority will carry the same spirit into events, which attract one or perhaps two thousand people and which are otherwise low risk.
11. Once attendance reaches a level of about 10,000 or more the logistics are clearly those of a 'large' event and there is no room for any scaling down of the necessary documentation and preparatory meetings will be required to manage the event.
12. In the course of an event requiring a premises licence, it is possible that potential sources of combustion such as pyrotechnic materials or faulty electrical apparatus will be brought onto premises. Additional items brought in for the occasion, such as stage sets, costumes and decorations can render routine fire safety measures inadequate. The Licensing Committee will therefore consider the use of licensing controls to require notification before the introduction of significant new factors, which pose the possibility of additional hazards, in order that appropriate advice can be given and a framework for safe operation can be put in place before the event.

Joined up government

1. The Licensing Statement as set out in this document does not stand in isolation. In the course of its preparation, submissions have been invited from the Community Safety Partnership Team, lead officers for Planning, representatives from the Transport Working Party, the Tourism Development Officer and the Social Inclusion Working Party. It is therefore informed by those who have responsibility for formulating a range of other policies and the aim has been that it should complement those policies.
2. Good communication on a day-to-day basis is the key to effective integration of policies across service areas and agencies enabling a timely and flexible response to common issues. The Licensing Authority considers that a proliferation of working parties and consultative committees would make communication cumbersome and decision-making slow and muddled.

3. Excessive bureaucracy also provides poor value for money. The Licensing Authority's approach is to maximise useful dialogue and simplify the decision-making process without needless bureaucracy.
4. This Licensing Statement is the key reference point for all local policy considerations which impact on licensing decisions. Stakeholder representations on all aspects of the operation of the licensing function were taken into consideration and these representations assisted the formulation of the policy and brought about changes as the document progressed.
5. Regular meetings take place between the Licensing Officers for the local authorities within the Wiltshire area. These meetings will continue to facilitate the exchange of information and the sharing of best practice.
6. It is neither lawful nor desirable that the Licensing Statement of all five local authorities in Wiltshire should be identical. However there are some straightforward matters, on which we have taken a similar approach.
7. From time to time, contact meetings between partner agencies and responsible authorities look at operational matters, principally to identify those premises that appear to be failing to meet the licensing objectives. Working in partnership in this way assists in remedying shortcomings in the management of those premises and, where necessary, co-ordinating enforcement action and setting inspection priorities. A joint Enforcement Protocol will be used to guide the operational aspects of co-operation between the Licensing Authority and the Police in meeting the Licensing Objectives and this protocol will be revised periodically. Without prejudice to the requirements of the Licensing Act 2003, all joint working between police and local authorities takes place against the background of Section 17, Crime and Disorder Act 1998.
8. Similarly, regular meetings are held between the Council's Licensing Officer and Planning Officers in order to formalise the exchange of information and to facilitate a coherent approach between these distinct regulatory functions.
9. Following representations, when the Licensing Committee is formulating conditions to be attached to a premises licence, it will have regard to the desirability that these should complement the Crime and Disorder Partnership objectives and those of other partnerships to which the Council is party.
10. In order to avoid duplication and to safeguard the rights of applicants, the Licensing Authority will endeavour to ensure, so far as possible, that Planning and Licensing applications are each given a distinct focus, which differentiates between the two functions.

Licensing and Planning

1. The Planning Authority is consulted about Licensing applications and has the right to make representations on them, whereas the Licensing Authority has no statutory role in Planning consultations. Applicants will therefore see the sense in resolving Planning issues first, where their proposals have both Planning and Licensing aspects. It should not be thought that any decision made about a Licensing application will influence the decision on a Planning application or vice versa. The objectives and the tests that are applied are different in each case. Nevertheless, the exercise of powers under the two sets of legislation can have similar effects and the Licensing Authority will bear in mind the desirability of avoiding duplication or ambiguity where possible.
2. In any case where premises are Listed or situated within a Conservation Area, a brief summary will be obtained from the Design, Conservation & Development Group within Environment and Property, setting out in general terms the substance of any potential clash between Licensing conditions and Planning restrictions, to inform the determination of the Licensing application.
3. The Planning process is principally concerned with establishing whether a building can be used for a broadly specified purpose, at a particular location. It is also concerned with the size of the building, its visual appearance and the demands it will impose on the local infrastructure. Generally, a Planning permission is broad in character with few conditions attached to it.
4. It is recognised that there is the potential for overlap between the Planning and Licensing processes. In particular, people living nearby can make similar representations under both processes to the effect that what is proposed would result in disruption or nuisance.
5. This can lead to submissions in an identical format to two separate committees of the Council, each of which could refuse the licence or permission, necessary if the business proposal is to proceed. This could breach the principles of natural justice. There is no equivalent difficulty if an objector raises a set of Planning specific points as the basis of one objection and a set of Licensing specific points as the basis of a second objection.
6. Where an individual or a body has exercised their opportunity to comment on a Planning application, they should not think that it is legitimate to move their comment 'sideways' and make it a Licensing representation, in order to have a second opportunity to object. Planning rules are quite different from the Licensing Objectives, so what is relevant for Planning will not normally be relevant for Licensing.

7. Where by its nature an objection has a direct bearing on the Licensing determination but is not a matter which has relevance for the Planning process, full weight will be given to that objection if it is put forward as part of the Licensing process, even though it was effectively disregarded in the Planning process.
8. To illustrate this point, an objection claiming that there was nothing to stop the business from attracting a young, noisy crowd and that there was bound to be karaoke every Friday night would be ignored if it was made in relation to an application before the Planning Committee in respect of a proposed change of use. The outcome might be a quiet daytime cafe. An objection in those terms might nevertheless be persuasive in a Licensing context, where an operating schedule allows for such activities.

The prevention of crime and disorder

Public disorder

1. The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs. Those concerns are predominantly but not exclusively focused on the 16 - 25 age range because that age group is typically the most socially active, uninhibited and adventurous.
2. It is also the case that people of that age are those who are disproportionately at risk from the forms of crime which licensing is designed to discourage and they are therefore the principal beneficiaries of the licensing constraints on the licensed sector.
3. It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature.
4. Measures which are designed to control disorder and vandalism or which disrupt the distribution and use of illegal drugs are legitimate in the licensing context. Where representations are made about such matters, appropriate measures may be imposed as formal requirements of the licence. The need for such measures and extent to which they are appropriate in each individual case will be judged on a risk assessed basis, having regard to such factors as the type of clientele, the location of the premises and the times of operation.

5. The operation of premises close to pubs and night clubs is known to impede dispersal and in many cases generates local crowding, increasing the risk of violent exchanges. When representations have been made that a significant crime and disorder risk and practical policing difficulty would be likely to arise if a premises licence permitted such trading, the Licensing Committee will consider placing restrictions on the licence, limiting where trading can take place. There will be a presumption in favour of such conditions where there is the possibility that trading might take place near a large club or pub, in an enclosed area where buildings or other physical barriers prevent people from spreading out or where access for police vehicles is particularly hazardous for them or for pedestrians.
6. The behaviour of customers once they have left the immediate area may cause problems but the Act restricts potential objectors to commenting on matters that affect the 'vicinity' of the licensed premises. General information about improper behaviour short of overt violence, further afield than the vicinity of particular premises, must form part of the context in which licensing decisions are taken but taken individually those remote events will have no direct bearing on the licensing of individual premises.
7. The Licensing Committee will respond favourably to proposals from the police that premises in busy areas should adhere to core elements of a dispersal policy, designed to alleviate crowding as customers leave and to avoid a situation where customers arrive on the street in a boisterous and excitable mood.
8. Those having control of licensed premises which sell alcohol, have important responsibilities for deciding who is permitted onto their premises and for controlling the quantities of alcohol, which individual customers are allowed to drink while they are on the premises. A failure by licensees to exercise their responsibilities can impact on the incidence of violence fuelled by alcohol.
9. Where particular licensed premises are repeatedly and disproportionately associated with the sale of alcohol giving rise to incidents of violence, the Licensing Committee will, in the event that representations are made that the licence should be reviewed, consider withdrawal of the licence to sell alcohol.
10. Groups of revellers celebrating special occasions can on occasion have a clear intent to drink to excess and to behave outrageously. When this happens it imposes extra burdens on management and door supervisors. Not all premises will have the resources to deal with such groups and admission policies should reflect their capacity to cope. Where representations are made, the Licensing Committee will give thought to these supervision and admission issues.

11. Most of the distinctions between indoor and outdoor use of premises found in earlier legislation are absent from the Licensing Act 2003. The placing of bars out of doors or in a street is no longer forbidden. The use of beer gardens and pavement cafés is rarely a source of problems but the Licensing Authority is concerned that proper supervision extends to those areas. Table service and externally located bars can assist.

Closed circuit television

1. In some circumstances, the provision of CCTV cameras and video recording apparatus will be a formal condition of granting a Premises Licence, where an opportunity to impose conditions arises. However in respect of some licensed premises such as a small, rural public house which has the service of meals as the key part of its business and which has a mature clientele, the provision of any CCTV facility will be left to the discretion of the owner, unless there is good evidence that licensable activities on the premises are or are likely to be responsible for crime and disorder problems.
2. A distinction will be made between good practice - which will be promoted by advice - and the minimum standard, which all businesses of a particular character must meet and which will be the subject of suitable licence conditions.
3. In responding to representations, it is expected that the Licensing Committee will normally apply a formal licensing requirement for the provision of CCTV to late night premises in areas where customers typically move from venue to venue in the course of the evening and to similar premises elsewhere that are a sufficient 'destination' in their own right that they attract a significant number of customers who have been drinking at other licensed premises for the earlier part of the evening. Rural or family pubs would not normally have this as a formal requirement, just because they open late. Where formal requirements are applied, these will extend to coverage of internal entrance lobbies and any part of the premises (such as lobbies and stairwells), which are not routinely under the visual supervision of responsible members of staff.
4. In addition, such premises may be required to make provision for comprehensive video surveillance of the immediate approaches to the entry and departure points routinely used by customers and of external features such as alleys, which are adjacent to the structure of the premises.
5. When a licensing requirement for CCTV is imposed, a recording facility will usually also be necessary, to assist in fighting crime. It is a Data Protection Act 2000 offence to keep tapes for longer than needed, so the two requirements have to be balanced. The advice of the Information Commissioner is that for cameras covering the inside of licensed premises, recordings can be kept for seven days. If there is an incident, the relevant

recordings should be kept for longer. Where cameras cover what is happening on the street, the advice is that recordings should be wiped after 31 days because incidents may be captured that have not been noticed at the time. Where private cameras on licensed premises overlook the street, the logic is that the 31 day limit is the one that applies. The CCTV Code of Practice is continually under review. If new time limits are advised, those will automatically substitute for those shown above. CCTV conditions will have flexibility built into them so that they move with the times, rather than having to be changed by varying the premises licence.

6. Provided that the video data is accessible to authorised officers on request, no requirement will be imposed on licensed premises that any equipment used for recording such data should be compatible with that used by any enforcement body.
7. Where there is no cost implication and no impact on the potential choice of suppliers, the Licensing Authority will be sympathetic to representations that the technical specification of any new CCTV system should have compatibility with the district CCTV system.

Door supervision

1. Those factors which give rise to the need for sophisticated CCTV systems will also generally point to the necessity of providing door supervision. Where it is very likely that premises will be challenged for entry on a regular basis by individuals who are under age, inebriated, believed to be potentially violent or intent on trading in drugs then door supervisor cover will be a formal requirement unless the circumstances are such that a personal licence holder or competent staff member should be able to deal with such matters without the benefit of specialist assistance.
2. At one extreme, if a public house in the town centre is busy and there is a crowd forming outside, it is obvious that there should be door supervisors on duty, to maintain control. At the other end of the scale, a quiet country pub in the evening or at lunch time when the town centre public house is either almost empty or is concentrating on serving meals, door supervisors are not necessary. The only exception then would be if there is a heightened risk of disorder as a result of a particular football match or a similar circumstance.
3. There are some circumstances where the normal level of door supervisor and management cover will be inadequate. Where events are directed at unaccompanied children, a greater level of supervision will be expected. There may be several ways to achieve the same thing, so no set formula will be applied. The presence of parents would make a marked difference to the assessment of cover. Where famous individuals make a guest appearance, additional personal guarding resources may need to be made available, to protect them and to maintain order. Similarly, in establishments which cater for stag nights or which offer entertainment of a sexual nature, a greater level

of supervision is needed in order to maintain order and again the resources given over to supervision will have to be higher.

4. Where a drink has been purchased for consumption on the premises the expectation of the Licensing Authority is that door supervisors and others who have control over the premises will prevent customers from taking the container with them when they leave. Where the container is the residue of a bottle of wine and it is clear from the context that the customer simply plans to continue drinking it at home, common sense should prevail. Similarly, there can be no objection to customers carrying purchases across a road or street, to reach a beer garden or proper sitting out area.
5. In order that door supervisors can carry out their duties properly and so that they can be distinguished from customers by police officers, it is important that they are dressed in a distinctive manner. The Licensing Committee will favourably consider representations that this should be made a formal requirement.

6. Illegal drugs

7. Much attention has been given to the use of drugs on licensed premises and the consequences for personal safety. The Safer Clubbing Guide concentrates on this issue and directs its attention particularly to the use of Ecstasy tablets by those attending night clubs. The fashion for the use of this drug was closely related to a particular dance culture which now has a considerably reduced following. Whilst the content of that guide dates quickly, it nevertheless contains useful suggestions, which the Licensing Authority will use when addressing drug related issues in the licensed sector.
8. Leisure venues often have a significant role in the distribution and consumption of unlawful drugs although the distribution and consumption of drugs is not an issue limited exclusively to the 'night club' sector or even to the night time economy as a whole.
9. The unlawful sale and supply of illegal drugs can take place at any time and venues such as public houses can become a focus for this activity. Such venues are also attractive to those engaged in trading in goods stolen from retail premises, since they are open at the same time as the shops and such illegal activities are more easily passed off as harmless socialising.
10. The Licensing Committee will address these issues no matter what the type of licensed premises involved and the time of day, when it receives representations.

Public safety

1. The Licensing Act 2003 complements but does not seek to duplicate the statutory requirements of other legislation regulating the conduct of licensed premises, such as the Health and Safety at Work Etc. Act 1974.
2. The Health and Safety at Work Act provides a statutory framework for ensuring the health and safety of employees and members of the public. It requires the implementation of a safe place to which the public and employees have access and further requires that risk be planned out of work processes. Licensing requires procedures, suitable construction and design; information systems and adequate staff cover as preconditions, which must be in place before a licensable activity may lawfully take place. Licences are permissions for an activity, rather than just formal frameworks within which activities must take place.
3. Glasses and glass bottles can be dangerous weapons. Subject to stock availability, realistic cost and the limits of available technology, the Licensing Authority will consider the desirability of safer options, when representations are made that the risk to public safety in any particular case merits special controls.
4. One of the things which the licensing system can provide is agreement in advance on a standard layout for furniture, location of stage, placing of linked seats etc. so that licensees can be confident about their practical arrangements, provided that they stick to that way of doing things. With other legislative controls, there may be no official view of the arrangements made, unless there is an investigation, after something has gone wrong.
5. As a consequence of the many common features of leisure businesses, such as the operation of door policies, competition for taxis and the interaction with people on the street late at night, individual premises necessarily function as part of a network of businesses, sharing information on crime and disorder issues which affect them all.
6. Participation in forums such as Pubwatch and the proper use of network radios are key to the safe operation of the majority of leisure businesses. Licence conditions will not normally be used to compel involvement with particular initiatives but when reviewing a licence, the Licensing Committee will take into account the extent to which the proprietors of the venue have participated in arrangements designed to improve communication and to promote public safety. Specific examples would be the practical arrangements put in place around 'high risk' football matches and campaigns to reduce drug crime.

7. Fire safety requirements are determined principally by specific fire safety legislation. Nevertheless, the overall standard of fire safety is an important consideration in determining the suitability of premises for licensable activities.
8. The Licensing Authority will not use the licensing process to secure routine compliance with fire safety requirements, which arise from other legislation. Nevertheless, where it is established upon representations being made by Wiltshire Fire Brigade that fire safety inadequacies pose a risk to the health and safety to those who enter them and where specific fire safety enforcement does not provide a sufficient or sufficiently rapid remedy, the Licensing Committee will take appropriate steps to ensure that the risk is removed including, where necessary, revocation of the licence.
9. In addition licensing must consider and deal with the introduction of further hazards to public safety as part of an event and the exercise of controls over occupancy, so that a building can be cleared safely and efficiently, in the event of an emergency. Where the Wiltshire Fire Brigade is able to provide occupancy figures and there is a real prospect that overcrowding might occur, the Licensing Committee will impose occupancy limits, if given that option.

10. Limits on occupancy

11. General restrictions on the occupancy of buildings or of floors within buildings are made on the advice of the Wiltshire Fire Brigade, having regard to the need to safely evacuate the premises in the event of a fire or some other emergency.
12. Licensing controls will be used to address localised overcrowding and circulation pinch points within buildings. Localised overcrowding and pinch points occur as a result of areas of the premises being disproportionately popular, the formation of queues and the crowding of people at the front of a performing area. There may be a requirement to provide in some venues a 'chill out' area, which is more relaxed, quieter and less crowded than the premises overall.
13. Where appropriate and following representations, the Licensing Committee may impose measures designed to deal with excessive numbers of people congregating in specific parts of the licensed premises. In some cases, occupancy limitations will be variable, in line with the practical circumstances pertaining in the premises at the time.

Prevention of public nuisance

1. The most obvious aspect of public nuisance is noise. The primary source of noise is amplified music, either uncontained outdoors or emanating from premises, which do not have sufficient measures in place to contain the sound. Late at night or in the early hours of the morning, individuals shouting in the street or groups of people talking in an animated fashion generate a substantial level of noise and in some cases this is aggravated by offensive language.
2. As customers leave licensed premises, the sound of their conversation can disturb residents. Potentially greater problems arise when customers congregate or accumulate outside the licensed premises. However it is clear that the person in control of the premises has a responsibility imposed by the licence to ensure that disturbance to residents is kept to the minimum.
3. Disturbance caused by pedestrians some distance away, once they have left licensed premises, is difficult to relate back and the premises operator has little or no legal responsibility at that point. If the individuals concerned had chosen instead to socialise at a private house, the effects would have been much the same.
4. The Licensing Authority accepts that annoyance caused by people in the street other than in the vicinity of licensed premises, falls outside the scope of licensing control.
5. Ancillary noise from equipment associated with the provision of entertainment (e.g. portable generators) will be controlled where possible through the imposition of licence conditions. Licensing controls on such matters as siting, specification and times of use may be augmented by powers exercised under noise specific legislation.
6. Fixed apparatus, which is simply there as part of the day-to-day functioning of the premises (such as externally mounted air conditioning units), will be controlled where necessary by noise specific legislation and not by licensing conditions.
7. When considering the potential impact of noise from premises, the Licensing Committee will not distinguish between prosperous areas and areas which suffer significant social deprivation. Nevertheless, the presence of a hospital, residential accommodation for the elderly or the number of young children living in the vicinity will be practical considerations which will influence licensing judgements.
8. The proximity of residential premises and the number of people who live close by will have a bearing on the noise assessment.

9. The perception of noise as a nuisance has a very substantial subjective element. The extent to which the local community participates in the licensed activity or identifies with it, is an important factor in determining what is reasonable in particular circumstances.
10. The numerical balance between those benefiting from an entertainment and those inconvenienced by it may also be a material factor, although due allowance will be made for the rights of minority groups, when weighing this factor.
11. The frequency of relatively noisy licensable activities at a given site is a material factor in deciding what is reasonable for any one day. It may be that musical events should take place on a particular field no more than two or three times a year or that residents should be guaranteed relative peace from Sunday to Thursday, to make up for the intrusiveness of events or entertainment held at a public house on Saturdays.
12. The time of day is a crucial factor in determining whether noise will constitute a nuisance. Background noise levels generally fall away significantly, from the evening into the early hours. A source of amplified music at a fixed level may not be noticed in the middle of the day but the same noise could be very intrusive if it continues into the middle of the night.
13. Atmospheric changes, which take place as night falls frequently causes sound to carry further. This can increase the impact of any uncontained amplified music or other noise on the local residents.
14. The times which follow are just a rough indication of the points at which noise becomes progressively more intrusive during the course of the evening. The general level of noise outdoors is likely to be dropping but at the same time, activities inside residential premises change and the occupants are more affected by noise. Switching off the television and going to bed are obvious examples.
15. In the early part of the evening, after about 6.30 p.m. young children are being put to bed and outside noise can make it more difficult to get them settled.
16. Elderly people often go to bed at around 10.00 p.m. and without the background sound of radio or television they too become more susceptible to noise.
17. Most people have gone to bed by about 11.30 p.m. and then very much larger numbers of residents are easily affected by noise.
18. Who lives in the vicinity and how close their living areas are to particular licensed premises are factors which the Licensing Committee will take into account, when deciding what is a reasonable balance between the right of the business to operate and the right of those living and working in the

locality to be protected from undue disturbance.

19. The shifts in sensitivity with time described above are part of the overall picture used to decide what is reasonable in terms of noise. They are not part of a simplistic formula for working out imposed finishing times. No special account will be taken of the needs of individuals who work night shifts. The Licensing Committee will take into account the ordinary needs and reasonable expectations of the community and will not make special allowances for individuals who have an exceptional susceptibility to noise.
20. The character of a sound makes a contribution to its nuisance value. This is more than just a function of its measured volume. Karaoke vocals and distorted public address announcements can be particularly intrusive because voice is more difficult to push into the background than music.
21. There are few or no instances in Swindon where premises would be able to produce noise in an uncontrolled manner, secure in the knowledge that there are no neighbours to annoy.
22. The Licensing Authority does not take the view that it is appropriate to impose any absolute standard of sound insulation and attenuation across the board. In each case, a proportionate level of care must be exercised, taking into account all of the factors set out earlier in this document and having regard to the nature of the particular premises. In practical terms, good neighbour practices such as keeping doors and windows closed while music is playing will often make a greater contribution to avoiding nuisance than any specialist technical measures which have been put in place.
23. More substantial sound attenuation and more robust management measures will be necessary where music is played at high volume within premises.
24. Sound outside generated by an 'overspill' activity from fixed premises (e.g. a pub garden or a balcony) cannot be easily contained and has the potential to cause disturbance, even in the middle of the day. Noise at hazardous levels is indicated by the necessity to shout in order to be heard. That shows how loud voices can be. Even without music, beer gardens can cause substantial disruption to neighbours and the situation must be managed. If necessary, special conditions will be imposed. The use of balconies, patios and similar areas is likely to cause particular problems in the evening. Steps may be taken to curb amplified music in such areas. Movement in and out of the building to use the area can allow music to escape from indoors. That may lead to restrictions on the use of outdoor areas, after a set time in the evening.

The protection of children from harm

1. The Act makes provision for the protection of children from harm. It does this by prohibiting the sale of alcohol to children and controlling their unaccompanied access to licensed premises.
2. In most cases, these basic restrictions are adequate. Premises where children are accompanied and supervised by their parents or carers will not generally merit any special additional measures.
3. Where entertainment of an adult nature is provided or the atmosphere within the premises is likely to be particularly boisterous, there will be a requirement for access by children to be restricted.
4. It is undesirable that children should be exposed to foul language but where such language is not a dominant feature or a pervasive aspect of an entertainment, it will be left to parents and carers to decide whether particular premises are a suitable place to take children, on that account. By way of illustration, it is considered that the exposure of children to entertainment with a somewhat risqué content is not sufficient cause to exclude children from premises but a sustained atmosphere of bad language and heated discussion brought about by the consumption of alcohol might make controls appropriate in a particular case.
5. Where the Licensing Committee has a reasonably founded concern, based on representations made to it, that children may be exposed to an atmosphere in which drug taking is approved or that they may witness transactions of a drug related nature, it may exercise its discretion to limit access by children to particular premises, without prejudice to any other formal action which might be appropriate in the circumstances.
6. Similarly, if the level of consumption of alcohol on particular premises is at a level which, whilst lawful, is associated with a general lifting of inhibitions and in the context is likely to make many of those present behave in an inconsiderate, unpredictable manner likely to make any average child anxious, restrictions may be put in place, limiting access by children.
7. Where formal representations are made that access by children ought to be limited, the Licensing Committee will consider imposing restrictions relating to different ages at different cut off times. Restrictions may be heightened or imposed in respect of specific circumstances. As an example, a televised football match of particular importance may draw a large attendance, with passions running high and with an elevated consumption of alcohol. That could create an atmosphere which is quite intimidating.

8. Where children are old enough to be present on licensed premises without being accompanied by an adult, a restriction which says that they must be accompanied may nevertheless be considered by the Licensing Committee if there are representations about a special set of circumstances. Such a restriction would be used for specific reasons however and not as a mechanism for imposing a general regime which is more rigid than that allowed for in the Licensing Act.
9. In community centres, leisure centres, schools and similar venues or where events are held by youth organisations, there are already established mechanisms in place, for checking staff and volunteers. These arrangements will not be extended by any Licensing condition and similar measures will not be imposed by default on all premises, which happen to be licensed.
10. Commercial undertakings wishing to hold events, such as youth discos, specifically targeted at unaccompanied children, may be required to submit those employees or other persons who will be regularly responsible for supervising the children, to the standard disclosure mechanism operated by the Criminal Records Bureau, in the light of representations.
11. Where representations to that effect are made, operators of premises which offer a substantial play facility where children can be left under the supervision of staff will be expected to submit those members of staff responsible for child care to the advanced disclosure mechanism operated by the Criminal Records Bureau. The requirement of such checks will not be necessary simply because the garden of a licensed premise contains some children's play equipment.
12. The system of age classifications for films imposes a specific regime on cinemas and other premises, which show them. The policy of the Licensing Authority is to follow the recommendations of the British Board of Film Classification for most purposes, whilst retaining the right to allocate a classification of its own to a particular film or to modify the advisory information proposed for use in connection with that film or the mechanism proposed for communicating that information.
13. The Licensing Authority will not force any establishment to admit children, as a condition of granting a licence.
14. In matters concerning the protection of children from harm, the Licensing Authority regards the Director of Social Services for Swindon Borough Council as the 'responsible authority' within the terms of Section 13 (4).f of the Licensing Act.

Delegation

The Licensing Authority will follow the scheme of delegations outlined in paragraph 3.49 of the Guidance issued under Section 182 of the Licensing Act 2003, with the exception that any decision on whether an objection is 'frivolous or vexatious' will be made by the Licensing Committee or Licensing Panel. In the event that a binding ruling clarifies that Section 10 of the Licensing Act does not preclude the delegation of such matters to officers, that more efficient mechanism will be used instead, in clear cut cases.

Modification of this Licensing Statement

In accordance with the Licensing Act, this Licensing Statement will be modified to incorporate any essential changes whenever appropriate and a full review will be carried out every three years. Circumstances may arise in which binding legal interpretations appear, the effect of which is to invalidate a part or parts of this policy. In such a case, the policy overall is deemed to continue in effect, following the deletion of the minimum amount of text necessary to restore compliance. This task will be delegated to the Director of Environment and Property. No replacement or substitute wording will be inserted at this stage but as soon as possible afterwards a formal process will be undertaken in accordance with the requirements of the Act, to decide what the new wording of the policy should be.

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