

Licensing Service recommended response to policy consultation written comments.

Respondent	Comment	Licensing Service recommended response
Punch Pubs & Co	<p>We were very pleased to note the importance placed on integration of policies and how the role of licensed premises fits within the ‘bigger picture’ of the area. In particular, including links to the other policies is helpful for parties looking at either coming into the area or making substantial changes to existing licensed premises.</p> <p>Licensing policies works best when they reference, and indeed work with, other council strategic plans and policies. For instance, planning strategies and local cultural strategies often inform applicants for either new licences or variations to licences as to what the council are looking to do in terms of promoting culture, leisure use and night-time economy uses in a particular area.</p>	No policy change required
Punch Pubs & Co	<p>Para’s 2.7 &amp; 2.8: We note the inclusion of ‘healthy lifestyles as a section in the policy and welcome the reference to the importance of community spaces and places for people to socialise. We also agree in general terms that uncontrolled sales of alcohol can be detrimental; to people’s health.</p> <p>However, we are concerned that the references to the role of the Director of Public Health and indeed the presentation of ‘data’ in relation to licensing applications and reviews overreaches what is permitted in law. We would suggest that this paragraph needs to emphasise that such information cannot inform a committee in its decision making on individual premises applications, unless a direct link can be shown between the premises and the data being presented. It is not enough to show alcohol can produce harmful effects by presenting hospital admission data, for instance, for such representations to be germane in individual cases. The policy should, we submit, explicitly reference this to avoid giving a misleading impression of the powers of DPH data in</p>	<p><b>Draft policy amended</b> to include the clause: “and the data shows a clear link between the premises concerned and the data presented.”</p>

	determining licensing matters.	
Punch Pubs & Co	Paras 2.9 to 2.11 deal with 'amenity'. We found this confusing as 'amenity is a term of art used in planning matters. The list of factors to be considered issues of 'amenity' can all be categorised under one or more of the licensing objectives. We feel that this reference introduces a new 'test' that is not found within the Licensing Act and therefore is likely to cause confusion.	<b>Draft policy amended.</b> Agree that this section can be removed as may cause confusion and while amenity is important the wording could be seen as superfluous to the policy. The policy objective of protecting "amenity" is arguably achievable by the promotion of the licensing objectives in general..
Punch Pubs & Co	Para 2.10 in particular is concerning. It states: 'Where there are several premises operating in the vicinity, definitive proof that particular premises are the cause of harm to amenity is rarely possible. The Licensing Authority will, however, draw sensible inferences as to whether premises are, or will be, contributors to such harm.' This reads like a cumulative Impact policy 'by the back door'. Cumulative Impact must be determined through consultation (as required by statute) and cannot be introduced by policy alone. To suggest that a Licensing Authority can draw sensible inferences in relation to the cumulative impact of premises when determining matters appears to be overreach. We feel therefore that this paragraph needs to be reconsidered in light of the statutory requirements around cumulative impact policies.	See above, recommend section removed.
Punch Pubs & Co	2.36 to 2.38 planning and building control Agent of Change Whilst we recognise that the principle is currently being utilised in the context of planning applications, it is equally as important in licensing. We recommend that the licensing policy expressly recognises that developers of new residential developments need to protect their buyers from potential sources of noise disturbance, not expect existing licensed premises to have to adapt their offer to accommodate the new development. In particular, small pubs often rely on live or recorded	No policy change required.  As stated "Agent of change" is a planning principle. There is a risk that if the principle is introduced into the licensing policy without statutory authority the policy could be seen to unlawfully undermine an individual's right to make representation or seek review in respect of pre-existing premises.

	<p>music, provision of social events and other community based promotions, such as beer festivals, in order to survive and thrive. We have, unfortunately, seen a rise in complaints and reviews directed at existing premises that have often been at the heart of the community for over a century, from residents moving into new properties nearby. Whilst it is incumbent upon licence holders to promote the licensing objectives, it is iniquitous and arguably a breach of their Article 1, Protocol 1 human right to peaceful enjoyment of property, which includes their premises licence, to have their livelihood threatened and sometimes taken away because of poorly designed and constructed residential property built next door.</p>	
Punch Pubs & Co	<p>2.39 ASB away from premises The paragraph repeats states that ‘this policy acknowledges the contribution... in certain circumstances, groups of premises to anti-social behaviour.’ Again, careful thought must be given to ensure that cumulative impact is not introduced without proper statutory steps being taken</p>	<p>No policy change required.  The policy clearly sets out the Council’s approach to assessing cumulative impact.</p>
Punch Pubs & Co	<p><b>Para’s 3.16 to 3.24: Licence Conditions</b> Whilst Punch Taverns recognise the importance of conditions on premises licences in certain circumstances, such as to prevent or to mitigate the potential risk of certain activities undermining the licensing objectives, we have a concern that more and more conditions are being placed on a licence that are then enforced as breaches of the licence in their own right. Licensing authorities are obliged to promote the 4 licensing objectives. Breaches of condition in and of themselves are an offence under Section 136 of the Licensing Act and on summary conviction can lead to an unlimited fine and/or up to 6 months in prison. It is important that this distinction is recognised in the policy and that breaches of condition in and of themselves are a matter for the Courts; whereas an undermining of the licensing objectives, which can happen</p>	<p>Acknowledged that breach of conditions per se is an offence under the Act (unauthorised licensable activity) but not accepted that the distinction can be readily made. Failure to comply with licence conditions in many instances is intrinsically linked to failure to promote licensing objectives.</p> <p><b>Draft Policy amendment</b> Additional paragraph added to emphasise that “breach” of conditions is an offence: “Breaches of condition in and of themselves are an offence under Section 136 of the Licensing Act and on summary conviction can lead to an</p>

<p>with or without conditions being on the licence in any event, are the province of the licensing authority to deal with. We would suggest that this distinction is made in your policy as it will re-enforce the message both for responsible authorities and for operators who hold premises licences in your area.</p> <p>Punch has always been happy to work with licensing authorities in relation to conditions being imposed on a licence where they are necessary and proportionate to achieve an identifiable aim. However, we are concerned with the prevalence of standard conditions being used across all licences within any particular class, This has taken over from a proper analysis of the need for such conditions in the first place.</p> <p>In particular, we have seen a rise in conditions being imposed upon premises licences by responsible authorities, irrespective of the nature of the application being made. For instance, a variation to the plans attached to a licence to effect a simple alteration in layout and where there is no change in licensable activities, increase in customer area, or removal of internal lobbies, for instance, sometimes result in officers seeking to ride on the back of that application to impose conditions that are in no way relevant to it.</p> <p>The case of Taylor v Manchester City Council makes is clear that any conditions imposed on a premises licence when it is varied must relate to that application itself and should not stray into other areas that are not part of the application. It is important again that this is referenced in policy in order to prevent unnecessary hearings and often additional expense to applicants seeking to make simple changes to their licence but are then held to ransom by responsible authorities who know that operators are unlikely to challenge their right to impose such conditions where the cost would be send the matter to a hearing.</p> <p>We submit that the imposition of large numbers of conditions on a premises licence is self-defeating. Premises licences form one part of a</p>	<p>unlimited fine and/or up to 6 months in prison”.</p> <p>Standard conditions have not been advocated in the draft policy. The wording is clear that it is not the intention to apply disproportionate or overly burdensome conditions. A list of model conditions will be attached to the policy to assist applicants draft their application but this list is in no way considered mandatory.</p> <p><b>Draft policy amendment.</b></p> <p>Comment on “Taylor v Manchester City Council: noted, additional wording added as follows:</p> <p>“In considering variation applications, decision concerning conditions will be confined to the subject matter of the application as per case law (Taylor vs Manchester City Council [2012]). In practice this means that conditions will not be imposed in response to a variation application that do not relate to the application sought.”</p>
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	<p>significant number of regulatory requirements that must be observed by publicans and this is often forgotten by regulators who often only think in terms of their one area of expertise. This means that they often do not see the wood for the trees. Policies that set out an expectation of long operating schedules or worse, require officers to object to applications unless the applicant applies their standard conditions, place an unnecessary burden on operators without necessarily helping to promote the licensing objectives. The City of London licensing authority, for instance, will only impose conditions if deemed absolutely necessary. It is not unusual to see licences with only a handful of conditions. The reason for this is that they expect operators to promote the licensing objectives, not go through the motions of complying with conditions because they have to. Also, licences grandfathered in 2005 would, likely have few or no conditions on them. We have seen no evidence to suggest such premises have undermined the licensing objectives more than "conditioned licences."</p> <p>We would challenge any authority to suggest that this approach leads to more issues with licence holders undermining the objectives. If anything this clarity of approach means that operators are freed up to adapt their businesses as the demands of the market change, freeing up officers from having to undertake lengthy inspections of licences and then having to send out enforcement letters relating to conditions that are breached in the observation without any real evidence that the breaches themselves undermine the objectives. This in turn frees up resources for enforcement against poorly behaving premises and dealing with unlicensed operators.</p>	
Punch Pubs & Co	<p><b>3.25 to 3.31: Prevention of Crime and Disorder</b>  The prevention of crime and disorder is one of the 4 licensing objectives and clearly a major pillar of licensing legislation. However, we have become increasingly concerned that licensed premises are sometimes</p>	<p><b>Draft policy amendment.</b>  “Applicants are expected to demonstrate in their operating schedule how they intend to promote the crime prevention objective <b>in relation to the</b></p>

	<p>being unfairly held to a higher standard when it comes to prevention of crime and disorder than other public premises. For instance, when Police present evidence of crime and disorder in relation to licensed premises, they will often include references to any crime that is associated not just with the premises in terms of its operation as licensed premises but generally. For instance, the Police will often include reference to all calls where those calls have referenced the premises as a local landmark which can include anything from criminal activity from people who have not been customers of the premises, offences in relation to taxis, or general disturbance and noise nuisance in a town centre where it cannot be said to be relevant to the premises.</p> <p>Premises licence holders will also often find reference to offences that are not relevant to the licensing objectives themselves. So, for instance, robberies at residential premises above a licensed and premises are sometimes included. We feel it is important that the council recognise in their policy that these are matters that are not relevant to the prevention of crime and disorder licensing objective and that the licensing authority's expectation is that they will only be presented with evidence where it directly relates to the licensable activities being provided within the premises themselves.</p>	<p><b>licensable activities provided.”</b></p>
<p>Punch Pubs &amp; Co</p>	<p><b>CCTV, ID scan &amp; GDPR</b></p> <p>We note a short reference to data protection laws in relation to CCTV and ID scanners, but given the near ubiquity now for such conditions to be imposed, rather than volunteered, we feel that there needs to be more made of this issue.</p> <p>One of the most significant changes in recent times has been the change to data protection legislation introduced via GDPR. Whilst the obvious effects of this regulatory change relate to protecting personal data held on behalf of individuals, such as social media, mailing lists, email data bases and various other forms of storage of someone else's data, there</p>	<p>No policy change required.</p> <p>The draft policy refers to GDPR and data protection laws under CCTV and ID scan paragraphs with links to the ICO for further advice.</p>

	<p>are other effects that need to be reflected in licensing policy.</p> <p>For instance, the requirement for CCTV at a premises licence is not only expensive to install, but we question the value of such systems in terms of crime prevention and detection, especially in smaller community pubs. However, it is now commonplace for police to demand CCTV in almost all premises and to insist upon complicated and demanding CCTV conditions to be added to premises licences. In addition, operators of CCTV systems have to consider the GDPR implications. In particular, anyone who stores data, including CCTV footage of individuals, which is classed as data for the purposes of GDPR, must be responsible for its safe collection, storage, usage and disposal. Handing over CCTV footage to Police officers in the active investigation of a criminal offence, such as a fight, would obviously be a legitimate reason for providing data. However, a condition with a general requirement to hand over CCTV at the behest of a licensing officer or police officer would arguably breach GDPR were it to be enforced. This means that there are numerous CCTV conditions on licences that would likely, were one to try and enforce them as they are written, cause an operator to breach GDPR. Similarly, club scan conditions need to be thought about in terms of GDPR and the obligations of the data holder. For instance, the time for which any data is stored and the purpose for storing that data needs to be made clear to people handing over their data. Again conditions that require such data to be handed over at the behest of an officer other than in investigating a criminal offence would in all likelihood breach GDPR.</p> <p>We feel therefore that this needs to be addressed in the policy in order to ensure that conditions are updated to ensure compliance and that CCTV in particular is not being universally required where there is no real and pressing need for it.</p>	
Punch Pubs &	<b>3.34 to 3.36: Prevention of Public Nuisance</b>	<b>Draft policy amendment</b>

Co	<p>The prevention of public nuisance licensing objective is to be widely interpreted, as set out in the Statutory Guidance. However, we often come across conditions imposed on licences, as well as the investigation of complaints that do not relate to public nuisance. For instance, conditions that refer to 'nuisance', rather than 'public nuisance', set a significantly higher barrier- one that was not intended by the Licensing Legislation.</p> <p>We also see this in terms of enforcement action where often enforcement officers will allege that a nuisance, often a private nuisance, has occurred and demand action under the terms of the premises licence. Clearly this is beyond that which was intended by Parliament and therefore we suggest that your policy reflects the need for public nuisance to be demonstrated and for conditions relating to nuisance to relate to public nuisance rather than any wider definition. In particular, we suggest that expressly stating that private nuisance is not a licensing objective would assist in all parties understanding what is and is not the remit of licensing legislation.</p>	<p>Wording changed:  “Public nuisance relates to the negative effects of nuisances including noise, light, odour, dust and litter affecting <b>at least a few separate households</b> locally.”</p>
Punch Pubs & Co	<p><b>3.71 &amp; 3.72 Pavement trading</b></p> <p>We welcome your acknowledgement of the positive impact of the Business and Planning Act. We would caution against reference to pavement licence conditions in premises licence applications. They are separate regimes and subject to change at different times. Indeed the Business and Planning Act has a ‘sunset’ clause set for 30 September 2022. Much better that conditions relating to external areas on premises licences relate to specific areas outside of pavement licensing such as pub gardens or where drinking on the pavement is permitted without any further licences.</p> <p><b>Tables and chairs outside premises, including garden areas</b></p> <p>External areas, especially gardens and enclosed spaces laid out to tables</p>	<p><b>Draft policy amendment.</b></p> <p>Reference to pavement licence scheme removed from pavement trading section. However the pavement licence conditions currently in operation provide a useful guide and reference to these conditions has been retained within the “outside areas” paragraph of the prevention of public nuisance section.</p> <p>Tables and chairs outside premises:</p> <p>Currently no tables and chairs policy in place so</p>



	<p>and chairs, are often attractive in their own right, as well as promoting businesses. Where they are on council land, they can be useful sources of revenue for local authorities. We would ask that your policy refers to any tables and chairs policy in place, with links to where application forms can be found on the council website etc. Whilst not strictly related to the Licensing Act 2003, the council policy document is a useful guide to licence holders and the more information that can be provided about ancillary matters, the more likely it is that licence holders and applicants will use this resource.</p> <p>In terms of gardens, these are often essential to businesses to thrive. Premises that spend time and money making their pub gardens attractive places for customers should not be penalised for increased custom, albeit we recognise that this may cause some additional noise for nearby residents. That being said, this would not ordinarily be considered a public nuisance and therefore undermine the licensing objectives. Of course, where activities take place outside of the ordinary use of such spaces, such as regular regulated entertainment, or use late at night, this can tip over into public nuisance, but again, this would be a balancing act. We would ask that your policy reflect this situation so that all parties recognise that use of pub gardens by customers will not automatically be considered a public nuisance and require enforcement action even if complaints are received from residents.</p>	<p>unable to provide this link.</p> <p>Policy sets out clear and detailed approach to enforcement, no policy change required.</p>
Punch Pubs & Co	<p><b>3.73 to 3.81 Cumulative Impact</b></p> <p>We note at 3.80 that there are no cumulative impact policy areas identified, but that this will be kept under review.</p> <p>We understand that there are occasions where Cumulative Impact Policies provide a valuable tool to local authorities in regulating the night time economy. However, our experience is that they can also be an impediment to businesses and the development of a thriving night time economy. Punch, as a promoter of entrepreneurship within our estate of</p>	<p>No further policy change required.</p>

	<p>leased pubs understands very well the challenges that small business operator's face when looking to enter a new market or adapt their offer. Cumulative impact policies can have the effect of dissuading operators from even attempting to get a licence. This unintentionally penalises operators considering smaller more novel applications (simply because of the prohibitive cost), often resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy in the CIP. For the same reason, such policies also promote ubiquity and stagnation as the only operators willing to take on the risk and outlay of applying in cumulative impact zones are larger established chains with the financial backing to fight for a licence. Given the plight of the pub market 7 years ago and now the casual dining market, in part because their offers failed to change as the market developed around them, the use of CIPs needs careful oversight. We re-iterate the points made above in relation to introducing cumulative impact via the back door and would ask that given there is no evidence for cumulative impact areas, these sections need to be carefully considered and where necessary clarified in light of this finding.</p>	
<p>Punch Pubs &amp; Co</p>	<p><b>4.41 to 4.49 Enforcement</b>  We suggest this policy specifically provides links to the Regulators' Compliance Code and the Enforcement Concordat together with the Council's own Enforcement Policy. This is useful for all parties to licensing matters and recognises the important role that businesses play in local communities.</p>	<p><b>Draft policy amendment</b>, suggested links added.</p>
<p>Punch Pubs &amp; Co</p>	<p><b>Minor Variations</b>  We would suggest that a little more detail is given in the policy in terms of clarifying for both officers and applicants what might be considered a minor variation. We would propose that the following bullets are added as a list of what minor variations can be used for:</p> <ul style="list-style-type: none"> <li>• small changes to the structure or layout of a premises and Changes to</li> </ul>	<p><b>Draft policy amendment</b>  Definition of minor variation added to the appendix of definitions with links to further guidance:</p> <p><b>"Minor variation.</b> A small change to a premises</p>

	<p>layout that do not increase the customer area (beyond a de-minimis increase of, we would suggest, 10%).</p> <ul style="list-style-type: none"> <li>• the addition of authorisation for late night refreshment or regulated entertainment (such as performance of plays or film exhibitions);</li> <li>• small changes to licensing hours (but see below on changes that relate to alcohol);</li> <li>• changes to hours for sale of alcohol that do not extend licensing hours for the sale or supply of alcohol at any time between 11pm and 7am or increase the amount of time on any day during which alcohol may be sold by retail or supplied;</li> <li>• revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions).</li> </ul> <p>and on occasion they do not even mirror the other. This leads to additional and unnecessary expense for licence holders should such conditions need to be amended.</p>	<p>licence or club premises certificate that could not impact adversely on any of the four licensing objectives. Further guidance is available <a href="#">here</a>. “</p>
Punch Pubs & Co	<p><b>On and Off-Sales</b></p> <p>We have become aware that the definition of on and off-sales has caused some confusion. In particular there appears to be confusion around whether an off-licence is required for customers to take drinks outside of a premises, for instance onto the pavement, and consume their drinks there.</p> <p>We contend that such a sale is an on-sale. If one considers the nature of the offence of selling alcohol without the appropriate licence, it is clear that the intention is that the person making the sale is the one who would be charged with the offence, rather than, say, the purchaser.</p>	<p>No policy amendment required.</p> <p>The statutory application forms require applicants to specify whether alcohol is sold for consumption on or off the premises or both. The guidance note to the application form states the following:</p> <p>“Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the</p>

	<p>Therefore, in selling a drink in an open container for immediate consumption, it cannot be argued that the publican has made anything other than an on-sale. It is inconceivable that the law intended that should this person step outside the premises, or indeed take that drink away with him, that this would somehow transform that on-sale to an off-sale. The terms 'on' and 'off' sales originate from the Licensing Act 1964. Analysis of the legislation (by reference to off-sales) demonstrates that all off-sales had to be intended to be sold for consumption away from not only the licensed premises but any land associated with that premises or land immediately adjoining it for them to be considered an off sale. The intention was to ensure that in a situation where a seller makes an on-sale, that on-sale does not become an off-sale simply by means of it being consumed in the immediate environment of the premises, such as an unlicensed garden or on the pavement outside the pub.</p> <p>As such, we feel that this needs to be clarified in the policy. We would propose a statement along the following lines:-</p> <p>"On and off-sales are defined by reference to the intention of the seller at the time of sale. A sale in an open container for immediate consumption at the premises is an on-sale. This extends to where the person who has purchased the drink at the bar and then consumes it either in a pub garden or on the pavement immediately outside the premises.</p> <p>An off-sale is a sale designed for consumption away from the premises and its immediate environs. This will usually be in a sealed container such as a bottle or can and the seller when selling that drink had no intention for the purchaser to remain at the premises to consume it".</p>	<p>licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises."</p> <p>This guidance is unambiguous and clearly envisages a situation where alcohol is sold for consumption in area outside the licensed area of a premises such as a beer garden and refers to these as "off-suppliers". The licensing service disagree that on/off sales are defined by the intention of the seller. The statutory guidance makes it clear that it is the intention of the premises licence holder that determines the matter.</p>
Punch Pubs & Co	<p>List and contact details for all responsible authorities</p> <p>We find it helpful where policies contain an up to date list of responsible authorities, with email and phone contact details. Whilst this may be</p>	<p><b>Draft policy amended</b> to include link to contact details via the definition of responsible authorities.</p>

	available via the council website, a link in the policy is always extremely welcome.	
Environmental Health (Public Safety)	<p>I would confirm that I have read the consultation document as it relates specifically to public safety and would agree with the proposed content of the policy.</p> <p>My only comment would be that it is unlikely Covid-19 will disappear for some time. I note that this has been incorporated within the pavement licence schedule of conditions in Appendix 2 and so it would be expedient to incorporate in the policy as a whole what licensed businesses have had to put in place this past year, e.g. ventilated shelters, adequate spacing of seating areas etc. However I appreciate that this may be seen as a public health concern rather than that of public safety and I note that this may be considered a duplication of controls. However, currently there are no legal restrictions in place for businesses to have Covid security measures despite increasing numbers of Covid-19 cases and so I would ask that this is an expectation or aspiration for businesses to have these in place.</p>	<p>No policy change required.</p> <p>As acknowledged in the comment this is outside the remit of licensing policy as this is not a matter relevant to the licensing objectives and duplicates requirements in other legislation. Specifically the requirement to carryout a health and safety risk assessment. Whilst Covid-19 remains a risk to health then those responsible are legally required to assess the risk and implement appropriate control measures.</p>
Environmental Health (Pollution Control)	<p><b>1.17</b> This paragraph states that applications will be determined in a way which best promotes the licensing objectives. The Act does not make specific reference to the word 'best' and so would this amount to an ultra vires decision making statement ? <b>The word 'best' is replaced with 'effectively'.</b></p>	<p><b>Draft policy amendment.</b> Change made.</p>
Environmental Health (Pollution Control)	<p><b>2.4</b> The promotion of an integrated approach to enforcement is very much supported by this Responsible Authority.</p>	<p>No change required</p>
Environmental Health	<p><b>2.9 and 2.10</b> Whilst there is philosophical linkage between the statutory licensing</p>	<p><b>Draft policy amendment,</b> sections removed.</p>

(Pollution Control)	<p>objectives and the Council’s Corporate Plan priorities, et al, there is a danger in conflating the concepts of amenity and public nuisance. In particular, section 2.9 may encourage residents to approach the Council on matters relating to a diminution to their amenity (or perception of it), due to licensable activity, but our regulatory powers are largely limited to common law nuisance (in the case of the Act, public nuisance only) which is fundamentally more serious in extent. This could result in disappointment and possible claims of maladministration if the Council purports to have a regulatory control that it does not actually have.</p> <p><b>Insert text that makes clear that decision making is limited to the prevention of public nuisance only or remove sections 2.9 and 2.10.</b></p>	
Environmental Health (Pollution Control)	<p><b>2.17</b> As above, the local expansion of the definition of public nuisance to cover matters such as tackling climate change is unlikely to be upheld by the courts.</p> <p><b>Revision of the text to realistically reflect the constraints of the Licensing Act 2003.</b></p>	<p>No change required. Draft policy wording makes clear that promoting environment concerns is not a licensing objective but there are potential links to public nuisance in appropriate circumstances.</p>
Environmental Health (Pollution Control)	<p><b>2.39</b> The nuisance and crime associated with licensed premises that actually take place beyond the physical extent of the premises is a significant and growing problem locally.</p> <p><b>Some additional text on establishing causal links between nuisance, anti-social behaviour and/or crime and licensed premises would help hold licence holders to account for the wider, but linked, consequences of their operations.</b></p>	<p>No change required.  This is a matter that requires consideration on a case by case basis.</p>
Environmental Health (Pollution Control)	<p><b>3.11</b> Whilst the thrust of this paragraph is very much supported again it is important to recognise that residents do not have a statutory or</p>	<p><b>Draft policy amendment.</b>  Sentence referring to nuisance removed.</p>

Control)	<p>enforceable right to peace and/or quiet.</p> <p><b>Rephrase this paragraph to make reference to the statutory protection of residents from nuisance.</b></p>	
Environmental Health (Pollution Control)	<p><b>3.15</b> Again, this provision is supported by this Responsible Authority but perhaps it could be clarified that it relates to the real world promotion of the licensing objectives otherwise it runs the risk of the Council being deemed to have created a de facto standalone licensing objective regarding management competence.</p> <p><b>Insert text linking the sentiment of the para to the licensing objectives.</b></p>	<p><b>Draft policy amendment.</b></p> <p>“Where there is a history and pattern of non-compliance associated with the management of the premises, <b>linked to an adverse affect on the promotion of the licensing objectives...</b>”</p>
Environmental Health (Pollution Control)	<p><b>3.18</b> This is a significant point that is worthy of greater emphasis – the Licensing Act 2003 is essentially a risk management regime and too often applicants approach it as a form filling exercise without much wider thought.</p> <p><b>Perhaps an aide memoir can be attached to the Policy Statement that encourages applicants to consider the gross (i.e. unmitigated) risks of non-conformity with the licensing objectives and the net risk (the difference being attributable to the effectiveness of the control measures set out in the Operating Schedule).</b></p> <p>Pre-application consultation is very often helpful and so should be advocated within the Statement.</p> <p><b>Insert words to the effect that pre-app consultations are encouraged (also see section 4.6).</b></p>	<p><b>Draft policy amendment</b> Reference to legal sanctions for failure to comply with conditions added.</p> <p><b>Draft policy amendment:</b> “Potential applicants <b>are encouraged</b> to discuss their proposals with the Licensing Authority and responsible authorities.</p>
Environmental	<p><b>3.19</b></p>	No change required.

Health (Pollution Control)	This could be assisted if specimen Operating Schedule conditions were appended to the Statement in the same way as Appendix 2.  <b>Creation of an additional appendix and revision of section 3.21</b>	A schedule of model conditions will be drafted but it is intended these will be published as separate document to allow more timely updates.
Environmental Health (Pollution Control)	<b>3.33</b> Consideration needs to be given by the applicant the control of noise at work in music and entertainment. In 2008, workers in the music and entertainment sectors became protected from exposure to excessive noise under the Control of Noise at Work Regulations 2005 (the Noise Regulations). This applies to licensed premises and entertainment venues. This is covered by the Health and Safety Executive under 'Noise at Work'  <b>Reference should be made to this and links to the relevant HSE web pages see foot note</b>	<b>Draft policy amendment</b> The Control of Noise at Work Regulations (2005) require employers to reduce risks to health and safety from noise at work. While the regulations do not apply where people are not at work, the general duties under the Health & Safety at Work Act may apply. For further information see the HSE, "Noise at work A brief guide to controlling the risks".
Environmental Health (Pollution Control)	<b>3.34</b> The list of noise, light, odour..... could be read as being exhaustive. <b>Insert the phrase 'this is not an exhaustive list of nuisances'.</b> Reference to 'people' could be interpreted as those in the same household, i.e. this would then probably amount to private nuisance and therefore beyond control of the Licensing Act 2003)  <b>Term anti-social behaviour should be considered under Prevention of crime and disorder rather than that of public nuisance.</b>	<b>Draft policy amendment</b> "Public nuisance relates to the negative effects of <b>nuisances including</b> noise, light, odour, dust and litter affecting at least a few separate <b>households</b> locally."  <b>Draft policy amendment</b> Reference to anti-social behaviour removed.
Environmental Health (Pollution Control)	<b>3.36 i) – 5th bullet point</b> A 'disturbance' may not amount to a public nuisance.  <b>Reconsider text.</b>	<b>Draft policy amendment</b> "Outside lighting shall not cause a <b>nuisance</b> to nearby residents."
Environmental Health	<b>3.36 n)</b> See comment re 2.39 above	<b>Draft policy amendment</b> "Where there is a history of <b>public nuisance</b>



(Pollution Control)		associated with street drinking in an area,
Environmental Health (Pollution Control)	<p><b>3.58 – 3.61</b> The generality of this section implies, to a degree, that the principal solution to street drinking is a PSPO.</p> <p><b>It is suggested that greater emphasis is made of possible causal links between licensed premises and street drinking and the possibility of licence reviews of those premises that are not taking appropriate action.</b></p>	<p><b>Draft policy amendment</b> “The street drinking of alcohol has found to be associated with crime and disorder and anti-social behaviour in certain areas of Buckinghamshire. <b>Street drinking can also be associated with public nuisance. To help tackle the issue</b> the Council has introduced PSPOs (Public Space Protection Orders)...”</p> <p><b>Draft policy amendment</b> “<b>Licensed premises selling alcohol where there is a demonstrable link between the alcohol sales and a failure to adopt appropriate measures to promote the licensing objectives are likely to be subject to enforcement action, which may include a formal review of the premises licence.</b>”</p>
Environmental Health (Pollution Control)	<p><b>3.63</b> As I understand it, SAGs are non-statutory in nature and therefore the word ‘required’ in connection with event notification forms and risk assessments might well be ultra vires.</p> <p><b>Replace ‘required’ with ‘strongly encouraged’.</b></p>	<p><b>Draft policy amendment</b> Suggested change made.</p>
Environmental Health (Pollution Control)	<p><b>3.64 – 3.66</b> Large events should give significant consideration to noise management. There is no mention in the table for noise or noise management. Nor the positioning of equipment so as to not cause a public nuisance. This noise management should not just be for the licensable activity but for the event as a whole.</p>	<p><b>Draft policy amendment</b> Noise management <b>planning</b> and controls</p> <p><b>Draft policy amendment</b> “cooperate with the Licensing Authority, the</p>

	<p><b>Addition into the table for the requirement for noise management planning and controls</b></p> <p>Phrase, ‘cooperate with the Licensing Authority, the police and any other responsible authorities’ would be helpful to include reference the reactive environmental protection team</p> <p><b>Reference to include ‘cooperate with the Licensing Authority, the police, the environmental protection team and any other responsible authorities’</b></p>	<p>police, <b>the environmental protection team</b> and any other responsible authorities”</p>
Environmental Health (Pollution Control)	<p><b>4.5</b> This is obviously something to be encouraged, but at 76 pages the length of this document may put most applicants off.</p> <p><b>Consideration should be given to significantly reducing the length of the document by removing text that essentially repeats the content of the Act and/or other policy documents.</b></p> <p><b>A work flow chart may assist new applicants in navigation the application process and act as the check list to ensure that all point are covered.</b></p>	<p>Much of the format/content of the policy is prescribed by statute and statutory guidance. Thought has been given to the subject headings and the policy complies with accessibility requirements to facilitate navigation around the policy.</p> <p>Alongside publication of the policy the licensing service will publish guidance material to assist service users.</p>
Fire & rescue service	<p><b>3.21</b> <b>Can we insert relevant fire safety information for the completion of a fire risk assessment.</b></p> <p><b><a href="https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments">https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments</a></b></p>	<p><b>Draft policy amendment.</b> Link inserted.</p>

	<p>The relevant assessment guidance for small and medium places of assembly (up to 300 Persons) and the large places of assembly (more than 300 persons) is located in the same link.</p>	
Fire & rescue service	<p><b>3.32</b>  <b>Application forms, under the public safety section rarely reflect any fire safety considerations such as the fire risk assessment and fire safety management included employee training. Can this section be improved to ensure applicants are fully aware of their duties for public safety?</b></p> <p><b>Compliance with the fire safety order is referenced in the revised guidance issued under section 182 of the licensing act 2004 dated April 2018.</b></p> <p><b>“Regardless of size or number of employees.”</b></p> <p><b>A copy of the FRA should be provided to the fire &amp; rescue service at the earliest opportunity.</b></p>	<p><b>Draft policy amendment</b>  Hyperlink added to Government guidance document: “Check your fire safety responsibilities under the Fire Safety Order”.</p> <p><b>Draft policy amendment</b>  All licensed premises, regardless of size <b>or number of employees</b>, must have a record of a suitable and sufficient fire risk assessment</p> <p>Requirement to deposit a copy of the FRA with the fire &amp; rescue service is outside the scope of the licensing policy.</p>
	<p><b>3.33 f)</b>  <b>“Live bands, entertainment, amplified music, the fire alarm and the DJ's microphone.”</b></p>	<p>No change required.  This paragraph specifically refers to use of ‘special effects’.</p>
	<p><b>3.36 k</b>  <b>Due consideration for arson control measures. Location of waste in proximity to the building, windows and final exits. Volume of waste especially when dealing with missed collections or payment disputes resulting in the build up of waste. materials which represent attractive targets to arsonists.</b></p>	<p><b>Draft policy amendment</b>  Additional section included:  “Arson. Arson is a common cause of fire at licensed premises. The location, accessibility and volume of waste are all factors that need to be considered. Large volumes of easily accessible waste stored in close proximity increase the risk</p>

		of arson attack.”
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