

Statement of Licensing Policy review

Licensing Committee

Date: 30th March 2021

Author: Kathryn Ashton, Licensing Manager
Wards: All
Parishes Affected: All

1. Purpose and Reasons

- 1.1 Section 5 (1) of the Licensing Act 2003 (the Act) provides that each Licensing Authority must determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy for each 5 year period. The policy must be kept under review and amendments made when considered necessary.
- 1.2 The draft review of the policy, which is attached as Appendix A was put before the Licensing Committee on 14 January 2021 with the request to go out for consultation.
- 1.3 The draft policy was subject to a full consultation between 25 January 2021 and 8 March 2021 with statutory stakeholders. The revised Statement of Licensing Policy requires determination by the Licensing Committee and ratification by the full Council.

2. Recommendations

The Committee is recommended to:

- 2.1 Take into account the comments received from the consultation process and to recommend approval of the revised Statement of Licensing Policy, as proposed in Appendix A, to Full Council.

3. Detail

- 3.1 Swindon Borough Council determined its first Statement of Licensing Policy (SLP) on 18 November 2004. This was reviewed in 2011 and again in 2015.
- 3.2 Section 5 of the Act (as amended by the Police Reform and Social Responsibility Act 2011) requires that the Council determines the policy at intervals of no greater than 5 years.
- 3.3 The current Statement of Licensing Policy is extremely comprehensive and has worked well, being used both by officers and Licensing Panels to determine licence applications
- 3.4 The Statement of Licensing Policy is based on the 4 Licensing Principles, which are enshrined in law. These principles are;
 - The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children from harm

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- 3.5 The Statement of Licensing Policy which has been subject to the consultation takes into account all the statutory changes summarised and also has included more detailed information to assist applicants and Premises Licence Holders
- 3.6 Some minor amendments were proposed. These are highlighted in the draft policy found in Appendix 1 and refer to permitted closing hours and control of noise in residential areas. There is also a statutory change in respect of court closure orders triggering a formal Licensing Authority review.
- 3.3 Any revision to the Statement of Licensing Policy must undergo statutory consultation and as a result the statement was subject to 6 weeks consultation between 25th January 2021 and 8 March 2021, in accordance with the Government's Code of Practice on Consultation. The consultation included statutory consultees, a public notice was published in local press and the details of the consultation was posted on the Council's website.
- 3.4 This consultation period was considered appropriate in view of the content of the policy and the potential impact on residents and business in the Borough of Swindon and also the length of time that the policy may be effective.
- 3.5 Only one response was received to the consultation. This respondent confirmed they felt the current policy ensured the Licensing Objectives were being upheld.
- 3.6 With respect to the proposed changes to permitted hours and control of noise, the respondent proposed the following consideration:
 - 3.6.1 "I wish that the applicant can demonstrate not the steps but demonstrates the activity has no impact on nearby residents. This may include noise mitigation measure and or noise limits."
 - 3.6.2 The current proposed addition states: "In residential areas where the applicant can demonstrate steps have been taken to minimise impact on nearby residents. This may include noise mitigation measure and or noise limits."
- 3.7 The respondent agreed with the reduction of time to thirty minutes for patrons to vacate the premises after cessation of any licensable activities.
- 3.8 No responses were received from statutory consultees.

Conclusion

- 3.11 It is therefore proposed that the Statement of Licensing Policy as stated in Appendix 1 is adopted in full.

4. Alternative Options

- 4.1 The Statement of Licensing Policy is a statutory document with review requirements established in law. The Council could choose not to amend or review the document, though this would leave Swindon Borough Council vulnerable to licensable activities taking place without the full range of enforcement tools to be able to control them.

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5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 The production and consultation arrangements associated with the Statement of Licensing Policy are covered by existing budgets.
- 5.2 There are no procurement implications arising from this report.

Legal and Human Rights Implications

- 5.3 The Secretary of State has certified that the Act is compatible with the European Convention on Human Rights.
- 5.4 Determining the Statement of Policy is a statutory function that must be carried by Swindon Borough Council and consultation must be undertaken prior to determining the final policy. Failure to determine the policy may lead to judicial challenges.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.5 The Statement of Licensing Policy specifically seeks to reduce aspects of crime arising from, or related to, licensable activities. It also seeks to ensure that public health is maintained through the activities that we licence.

5.6 Diversity Impact Assessment

- 5.7 A DIA has been produced and is available on request.

5.8 Risk Management

- 5.9 Failure to determine the policy may lead to judicial review proceedings.

6. Consultees

- 6.1 The Corporate Director of Finance and Assets (s151 officer) and Chief Legal Officer (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

7.1 Licensing Act 2003

7.2 Police Reform and Social Responsibility Act 2011

7.3 Live Music Act 2012

7.4 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

7.5 Revised Guidance issued under section 182 of the Licensing Act 2003 (published 2018)

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7 Appendices

7.1 Appendix 1 – Amended Statement of Licensing Policy

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Appendix 1 – Proposed amended Statement of Licensing Policy

Swindon Borough Council

Statement of Licensing Policy

Draft January 2021

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SWINDON BOROUGH COUNCIL STATEMENT OF LICENSING POLICY

PART 1

8. Introduction

Background

- 1.1 This Statement has been prepared in pursuance of section 5 of the Licensing Act 2003 ('the Act') and sets out Swindon Borough Council's policies in respect of the exercise of its licensing functions under the Act.

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- 1.2 Swindon Borough Council as Licensing Authority, ('The Authority'), is committed to maintaining a safe, sustainable and thriving economy that can be enjoyed by persons of all ages and from all sections of the community.
- 1.3 The Authority recognises that it must consider the legitimate interests of owners, employees, customers and neighbours of licensed premises but that its determinations will be with a view to the promotion of the following four licensing objectives of the Act:
 - a) the prevention of crime and disorder;
 - b) public safety;
 - c) the prevention of public nuisance; and
 - d) the protection of children from harm.
- 1.4 The Authority acknowledges, however, that the licensing process can only seek to control those measures within the control of the licence holder, and in the immediate vicinity of licensed premises. The Act, is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder. Nonetheless, it is a key outcome of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy, particularly in town centres.
- 1.5 The policies set out in this Statement do not seek to undermine the right of any individual to apply under the Act for a variety of permissions and to have any such application considered on its individual merits, nor to override the right of any person under the Act to make representations about an application, or to seek a review of a licence or certificate issued by the Licensing Authority.

Format of this document

- 1.6 The 'Statement of Licensing Policy' is divided into 4 parts. Part 1 provides an introduction to the Statement, its purpose, the statutory framework in which it has been prepared and provides a Borough profile as background information. It also details consultation arrangements and the enactment of the policy. Part 2 highlights the factors and issues that the Authority will take into consideration in granting licences where representations are made. These considerations are clearly linked to the furtherance of the licensing objectives listed in paragraph 1.3 above. Part 3 deals with how the Authority will implement the Statement of Licensing Policy in its consideration of applications and undertaking of its licensing functions. Part 4 summarises the Cumulative Impact Policy where this is in force.

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Profile

- 1.7 Swindon is a large town and unitary authority located in the South West of England at its border with the South East. It is midway between Bristol, approximately 40 miles to the west and Reading, approximately 40 miles to the east. Swindon Railway Station is on the main line from London, Paddington to Bristol and South Wales, and sits between Junctions 15 and 16 of the M4. Swindon Borough Council has been a unitary authority independent of the rest of Wiltshire since 1997. Swindon was named an Expanded Town under the Town Development Act 1952 and this led to a major increase in its population. Current population estimates show the urban area to be 174,000 with around 206,000 as the Borough as a whole, including the satellite towns of Highworth and Wroughton and a number of villages (Bishopstone, Blunsdon St Andrew, Castle Eaton, Chiseldon, Hannington, Inglesham, Liddington, South Marston, Stanton Fitzwarren and Wanborough).
- 1.8 There are approximately 750 premises and clubs licensed by the Authority which include pubs, nightclubs, restaurants, cinemas, theatres, takeaways, off-licences/supermarkets and members clubs. The Authority welcomes and encourages new and existing businesses that bring a range of diverse activities into the borough, but the Authority's primary consideration will always be the promotion of the licensing objectives.
- 1.9 The list of consultees, which includes those set out in section 5(3) of the Act, is included as Annex 1.

Commencement

- 1.10 This Statement of Licensing Policy was determined on 21 January 2016 and came into force on the following day. It remains effective for a period of 5 years but will be kept under review by the Authority and revisions made, as and when it is considered appropriate.

9. Purpose and Scope of the Licensing Policy

Licensing Objectives

- 1.11 When carrying out its licensing functions, the Authority shall seek to promote the four licensing objectives set out in Section 4 of the Act. These objectives are:
- The prevention of crime and disorder
 - Ensuring Public safety

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- The prevention of public nuisance
- The protection of children from harm

Each objective has equal importance.

Licensable Activities

- 1.12 The Act regulates the following licensable activities:
- The sale by retail of alcohol
 - The supply of alcohol by or on behalf of a club, or to the order of a member of the club
 - The provision of regulated entertainment
 - The provision of late night refreshment

Authorisations

- 1.13 These activities may be authorised by a premises licence, temporary event notice or, in the case of qualifying club activities, a club premises certificate.
- 1.14 The Authority is responsible for the administration and enforcement of these authorisations issued under the Act in respect of premises situated in Swindon. The authority also administers personal licences for those individuals who live in the Borough at the time that they apply for such a licence.
- 1.15 Each application will be considered on its own merits in the context of the four licensing objectives. Unless relevant representations or objection notices are received from responsible authorities or any other person, the application must be granted and where appropriate, the licence or certificate issued on the terms sought.
- 1.16 Where relevant representations or objections notices are received about an application for an authorisation, the authority shall determine if the application should be granted. This Statement of Licensing Policy shall be taken into account where such discretion is engaged.**
- 1.17 In exceptional circumstances, the Authority may deviate from any of the policies included in this statement where considered appropriate for the promotion of the licensing objectives. In deciding whether an exception to a policy should be made, the Authority shall consider the reasons underlying the policy and determine whether the objectives of that policy would be undermined by making an exception to it. Such an exception would, however, be unusual and in such circumstances reasons will be given.

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- 1.18 Unless otherwise stated, the policies set out in this Statement apply to all applications for authorisations administered by Swindon Borough Council.

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PART 2

Licensing Policies

10. Premises Licences and Club Premises Certificates

- 2.1 The policies set out in this section apply to applications made for premises licences and club premises certificates to be granted and applications to vary these authorisations.

General

POLICY G1 – Compliance with Licensing Objectives

The Authority will normally expect applicants to address all four licensing objectives in their Operating Schedule when applying for a new authorisation or when varying an existing one.

When setting out the steps that the applicant proposes to take to promote the four licensing objectives, the applicant should have regard to the following matters.

- the activities to take place there;
- the time at which such activities will take place;
- the proposed hours of opening;
- the period of the licence where the applicant wishes it to take effect for a limited period;
- the steps to be taken to promote the licensing objectives;
- where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) and the name of the designated premises supervisor.

REASON:

- 2.2 To give responsible authorities and other persons a clear indication of how the applicant, or holder of the authorisation in the case of variation applications, proposes to ensure the promotion of the licensing objectives

ADDITIONAL INFORMATION:

- 2.3 *Operating Schedules are the key to ensuring compliance with the four licensing objectives. The terms of the Operating Schedule will translate into the licence conditions that set out how the business will be run. The Authority will endeavour to work in full co-operation with the applicant or holder of the authorisation to minimise the number of disputes that may otherwise arise in*

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this area.

- 2.4 *In this respect the Authority will expect that the Schedule will demonstrate how it is intended that the premises will be a 'good neighbour' both to residents and to other venues and businesses in the locality. The Authority further expects applicants to provide evidence within the Operating Schedule, of effective and responsible management of the premises, including the effective instruction, training and supervision of staff being specifically addressed.*

POLICY G2 – Proof of Notification by advertisement

Where an application is required to be advertised in a local newspaper where circulation covers the premises, the applicant shall provide proof of the advertisement to the Authority.

REASON:

- 2.5 To ensure that the legislation has been complied with and that the application is valid.

ADDITIONAL INFORMATION

- 2.6 *The Authority considers that an advertisement in the Swindon Advertiser would be sufficient for this purpose.*

POLICY G3 - Conditions

The Authority will attach conditions to licences, which are tailored to the individual characteristics of the premises and the nature of the business. Any condition in addition to those set out in the applicants operating schedule will be formulated based on an individual case, and informed by this Statement of Licensing Policy

REASON:

- 2.7 To ensure that only conditions which are appropriate are attached to the licence thus promoting the licensing objectives.

General – All Four Licensing Objectives

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POLICY PW1 – ‘Pub Watch’

The Authority will expect that licence holders will work with, and in support of other licence holders in the vicinity of their premises to develop schemes and initiatives that seek to promote the licensing objectives.

REASON:

- 2.8 To promote the licensing objectives of preventing crime and disorder, ensuring public safety, the protection of children from harm and minimising or preventing public nuisance, in the vicinity of the premises.

The Prevention of Crime and Disorder

POLICY CD1 – CCTV

For premises or clubs that supply alcohol for consumption on or off the premises - and for premises that supply late night refreshment only -, the Authority will normally expect that CCTV shall be installed in the premises and that it shall be operational at all times that the premises is trading.

It is further expected that all CCTV recordings shall be retained for a minimum of 28 days and a copy of any such recordings made available to an authorised officer, within 24 hours of the request being made.

REASON:

- 2.9 To promote the licensing objectives of preventing crime and disorder,

POLICY CD2 – Provision of Door Supervisors

For premises or clubs that supply alcohol for consumption on the premises beyond 11.30pm on any day (other than New Year’s Eve), the Authority will normally expect that from 10.00pm until the close of the premises:

- a) a minimum of two door supervisors shall be employed, be present and readily identifiable at the premises and
- b) where the capacity of the premises exceeds 200 people, door supervisors shall be employed be present and readily identifiable at the premises at a ratio of 1 door supervisor to up to 100 persons at the premises.

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On New Year's Eve there is an expectation that the door supervisors will be provided to the same level as required by the licence or additionally on a risk assessed basis as agreed in writing with the Licensing Authority

REASON:

- 2.10 To promote the licensing objectives of preventing crime and disorder, ensuring public safety, the protection of children from harm and minimising or preventing public nuisance.

ADDITIONAL INFORMATION:

- 2.11 *The provision of door supervisors and security teams may be valuable in:*
- *preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;*
 - *keeping out excluded individuals (subject to court bans or imposed by the licence holder);*
 - *searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons;*
 - *maintaining orderly queuing outside of venues prone to such queuing;*
 - *ensuring that the premises are not overcrowded; and*
 - *generally promoting public safety.*

This policy does not apply to restaurants supplying alcohol ancillary to a table meal.

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POLICY CD3 - Safer Glassware/Bottles

For premises or clubs that supply alcohol for consumption on the premises beyond 11.30pm on any day; the Authority will normally expect that from 10.00pm until the close of the premises only polycarbonate, shatter-to-safe, plastic, paper or other inherently safer types of container shall be used in the premises.

REASON:

- 2.12 To promote the licensing objectives of preventing crime and disorder, ensuring public safety, the protection of children from harm and minimising or preventing public nuisance.

ADDITIONAL INFORMATION:

- 2.13 This policy does not apply to restaurants supplying alcohol; ancillary to a table meal.

POLICY CD4 – Drugs

The Authority will normally expect applications for premises licences which provide regulated entertainment and/or provide alcohol after 11.30pm to include a written drugs policy in their Operating Schedule.

REASON:

- 2.14 The Authority recognises that drug problems are not something which are relevant to all licensed premises. Many entertainment venues can, however, be popular both with drug users and suppliers. The production of a 'Drugs Policy' combined with effective professional management of a venue will assist in keeping incidents of drug abuse to a minimum. Such policies may address, amongst other things,
- the installation of a drugs deposit box in all licensed premises providing entertainment beyond 11.30pm;
 - a Drugs Register to record confiscated drugs and drugs deposits;
 - Suitably qualified First Aiders at all premises which provide entertainment beyond 11.30pm;
 - the provision of cooler, quieter "chill out" areas for patrons.

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POLICY CD5 – DPS (Designated Premises Supervisor)

The Authority will normally expect that the designated premises supervisor (DPS), where applicable, shall be in day to day control of the licensed premises and to achieve this, they shall live no further than a 30- minute normal commuting distance from the licensed premises. They shall also be easily contactable when not on the premises.

REASON:

2.15 To ensure the effective management of the licensed premises.

POLICY CD6 – Community Premises

Where an application is made by the management committee of a community premises, the Authority will normally expect it to include the 'alternative licence condition' in a premises licence allowing the management committee to take on the responsibility of the sale of alcohol instead of a DPS.

REASON:

2.16 To ensure that if the management committee of a community premises are responsible for the sale by retail of alcohol that the licensing objectives of the prevention of crime & disorder and the protection of children from harm are not undermined.

ADDITIONAL INFORMATION

2.17 *The Authority accepts that community premises are used by a wide variety of people and may be hired by users of the premises for private events. However, where the management committee take on the role of being responsible for the sale by retail of alcohol, instead of a DPS, they must ensure that those running events are sufficiently briefed and understand the legal and social responsibilities associated with the supply of alcohol under the premises licence.*

Public Safety

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POLICY PS1 – Venue Capacity

The Authority will normally expect that a licence holder or club will be aware of the safe permitted capacity of their premises and have appropriate systems in place to ensure that this capacity is not exceeded.

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REASON:

- 2.18 To prevent overcrowding in the premises, or parts thereof, in the interests of promoting the public safety licensing objective.

The Prevention of Public Nuisance

POLICY PN1 – Protecting Local Amenity

The Authority will strike a fair balance between the benefits of a licensed premises to a community, and the risk of disturbance to local residents. Consequently in certain areas the Authority may restrict the hours of operation of licensable activities.

REASON:

- 2.19 To promote the licensing objective of preventing public nuisance.

ADDITIONAL INFORMATION:

- 2.20 ***The Government's view is that variable licensing hours may facilitate a more gradual dispersal of customers from premises. The Authority acknowledges this view but also considers that it is evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of residents' sleep being disturbed by patrons leaving licensed premises is greater at 2.00am than at 11.30pm.***

POLICY PN2 – Permitted Hours

The Authority will normally grant authorisations for a time period commencing no earlier than 10.00am and terminating no later than 11.30pm for those premises licensed to sell alcohol for consumption on the premises and which are located in primarily residential areas. However, hours beyond 11.30pm may be permitted:

- a) for premises located in predominantly commercial areas, such as Swindon Town Centre and Old Town where there is a high level of accessibility to public transport services; or
- b) the licensable activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it; or
- c) there will not be any increase in the cumulative impact from

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these or similar activities, on any neighbouring residential area and the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets or on roads.

- d) **In residential areas where the applicant can demonstrate steps have been taken to minimise impact on nearby residents. This may include noise mitigation measure and or noise limits.**

REASON:

- 2.21 To promote the licensing objective of protecting public nuisance, and secondarily preventing crime and disorder.

ADDITIONAL INFORMATION:

- 2.22 *This policy is concerned with whether a proposal is appropriate in a location with particular regard to the impact on any residential areas. In those parts of the Borough, which are predominantly residential, it is anticipated that the terminal hour of premises where alcohol is sold for consumption on the premises would normally be 11.30pm, unless there are exceptional circumstances.*
- 2.23 *The supply of alcohol before 10.00am and after 11.30pm may be considered to be acceptable in principle for premises in commercial areas with high levels of public transport accessibility. However, in all cases, the granting of a licence will depend on impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, people coming and going, crowds and queuing; and whether any impact is particularly unacceptable late at night or in the early hours of the morning.*

POLICY PN3 – Opening Hours of Premises

The Authority will expect the Operating Schedule to indicate that patrons will vacate the premises no later than **thirty minutes after cessation of any licensable activities.**

REASON:

- 2.24 Any activity involving regulated entertainment, or eating or drinking either on or off the premises, has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the highway. It may be exacerbated by

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patrons being noisy when leaving, leaving litter or taking up on-street car parking space. The impact of noise generated by these activities, especially patrons departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

- 2.25 Parts of the Borough are very sensitive to the impact of licensable activities because they are either residential in character or close to residential areas. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of patrons arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.

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POLICY PN4 – Outside Areas

For premises located in primarily residential areas:

- a) **The Authority will normally expect that the provision of regulated entertainment in any outside areas will cease no later than 8.00pm on any day.**

REASON:

- 2.26 Noise generated by regulated entertainment provided in outside areas and/or patrons congregating in outside areas can have a detrimental effect on neighbouring residential properties. Restricting the use of such areas will prevent an unreasonable disturbance to these properties, preventing public nuisance.

POLICY PN5 – Noise Assessments

The Authority will expect applicants for premises licences to provide evidence, within their Operating Schedule, of any assessments made to minimise noise disturbance, both inside and outside of the premises, and to fully implement any measures identified as being required to prevent nuisance to patrons, local residents and local businesses.

REASON:

- 2.27 One of the greatest causes of annoyance to residents at night to sleep is the sound of music escaping from licensed premises. Harmful escape of sound might preclude the grant of a licence or if one has already been granted might justify a review, with a view to possible revocation. It might also lead to a Noise Abatement Notice being issued under the Environmental Protection Act 1990. Responsible applicants and holders of authorisation will avoid the need for such action if they comply with the licensing objective of preventing public nuisance.
- 2.28 In addition, residents are frequently disturbed by patrons leaving entertainment venues in the early hours of the morning. While licence holders cannot be held solely responsible for the behaviour of their Patrons after they have left the premises, they have a duty to put in place measures that will assist in the quieter exiting and dispersal of such patrons, who may be less inhibited about their behaviour and be unaware of the noise and disturbance they are creating for residents. A responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance.

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Protection of Children from harm

POLICY PCH1 – Protection of Children from harm

The Authority will take robust measures to protect children from harm and, where relevant representations are received, will normally impose conditions for limiting the access where it considers necessary to prevent harm to children

REASON:

- 2.29 This policy is designed to allow flexibility for the individual Licensee to ensure that where appropriate, licensed premises are suitable for children, whilst ensuring that they are adequately protected.
- 2.30 Whilst the prevention of children from harm is a key licensing objective, the Authority will not normally impose restrictions on admission of children to any premises as it considers that it is a matter for the holder of the authorisation to determine. However, premises that may require conditions covering access by children may include the following:
- a) Where there have been convictions for serving alcohol to minors.
 - b) Where entertainment of an adult or sexual nature is provided;
 - c) Where there is an element of gambling on the premises;
 - d) Premises with a known association with drug taking or dealing;
 - e) Where the supply of alcohol is the exclusive or primary purpose of services provided.
- 2.31 In such circumstances it may be necessary to impose a condition banning entry to those premises by children under the age of 18 years. Options other than a complete ban can include the following:
- a) Limitations on the hours when children may be present;
 - b) Proof of age arrangements for alcohol sales, for example the PASS scheme;
 - c) Age limitations [below 18];
 - d) Limitations on exclusions of the presence of children under certain age;
 - e) When particular activities are taking place;
 - f) Requirements for accompanying adults;
 - g) Full exclusion of people under 18 from the premises when certain licensable activities are taking place
 - h) Exclusion of children from certain parts of a premises.
- 2.32 Where there are large numbers of children expected to attend any licensable activities, or the entertainment is specifically provided for children, the Authority will, by way of suitable conditions, require the presence of visible and identifiable stewards to control the access and egress of the children and

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ensure their safety within the premises. Such stewards shall be over 18 years of age and have training in the means of escape arrangements and other facilities. The stewards will also be required to undergo a periodic PNC/DBS checks to the satisfaction of the Authority.

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POLICY PCH2 – ‘Challenge 25’

The Authority will normally expect that premises authorised to supply alcohol for either consumption on or off the premises will operate a Challenge 25 policy, such that all customers who appear to be under the age of 25 shall be challenged to prove that they are over 18 when attempting to purchase alcohol. The Authority would expect that the only acceptable forms of identification for proof of age would be a photo driving licence, passport, or home office approved identity card bearing the holographic "PASS" mark. It is further expected that where such a scheme is in operation, all staff working at the premises should be fully trained and aware of the scheme and appropriate training records maintained.

The Authority will normally expect that licensed premises maintain a refusals register at all times when licensable activities are taking place.

REASON:

2.34 The ‘Challenge 25’ policy is a nationally recognisable scheme that aids in the prevention of the supply of alcohol to children, thereby promoting the protection of children from harm licensing objective.

POLICY PCH3 – Film classification

Where a premises licence or club premises certificate authorises the exhibition of a film, the Authority will normally specify that the admission of children to any exhibition shall be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC) or in the absence of such a recommendation, the Licensing Authority itself. Any recommendation by the Licensing Authority to restrict the admission of children to an exhibition of a film will normally be made in accordance with the current BBFC Classification Guidelines.

The Authority will normally expect that any request for a recommendation on the restriction of the admission of children to an exhibition of a film is made no later than 4 weeks prior to the proposed exhibition, or first exhibition as the case may be.

REASON:

2.34 To ensure that Children are not exposed to unsuitable material, promoting the

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protection of children from harm licensing objective. Also, to allow sufficient time to give appropriate consideration to an unrated film where the Authority is asked to give a recommendation on the restriction of the admission of children to the film.

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POLICY PCH4 – Adult Entertainment

The Authority will not normally grant premises licences for entertainment which involves a sex related or adult element in any premises which are located in the vicinity of schools, youth clubs or any other premises where significant numbers of children are likely to attend.

REASON:

- 2.35 To further the licensing objective of protection of children from harm by preventing them being exposed to unsuitable material or acts, and also to further the crime and prevention objective.
- 2.36 Where activities specified in an applicant's operating schedule include those of an adult or sexual nature, for example, male and/or female striptease, lap, table, or pole dancing, topless waitresses, entertainment involving strong and offensive language etc., the Authority will take into consideration the risk to the promotion of the licensing objectives particularly in respect of the protection of children and prevention of crime and disorder.
- 2.37 Where such applications are made, it will be for the applicant to demonstrate in their operating schedule all preventative measures which will be taken to ensure that there is no risk to the promotion of the licensing objectives. Where such licences are granted, the Authority will impose suitable conditions to prevent the admission of children and to prevent crime and disorder problems.
- 2.38 Where the Authority grants a premises licence that includes activities of an adult or sexual nature, it will impose conditions relating to the following;
- a) the location within the premises where activity takes place;
 - b) the absence of advertising the activities outside the premises;
 - c) the measures taken to ensure no person under 18 years of age enters the premises;
 - d) the position of the performers' dressing rooms in relation to the area in which they perform;
 - e) physical contact between performers and customers.

POLICY PCH5 – Designation of Responsible Authority

The Authority considers it appropriate to designate Swindon Borough Council's Head of Children, Families & Community Health as the Responsible Authority for the prevention of harm to children.

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REASON:

2.39 To promote the licensing objective of protecting children from harm.

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POLICY PCH5 – New Psychoactive Substances, (Legal Highs)

The Authority will normally expect that no New Psychoactive Substances are on display for sale at any premises authorised for licensable activities

REASON:

To promote the licensing objective of protecting children from harm.

11. Personal Licences

POLICY PL1 – Personal Licences

At a hearing in respect of an objection to the granting of a personal licence, or the revocation of an existing licence, the Authority will consider carefully whether the grant of, or continuation of, the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) was/were committed and any mitigating circumstances put forward by the applicant or licence holder (as appropriate). The Authority's determination will ensure the promotion of the prevention of crime objective.

REASON:

2.40 Prevention of crime is both an objective of the Act and a responsibility of the Authority under the Crime and Disorder Act 1998. A person holding a personal licence should be properly qualified and who will assist in the prevention of crime. Granting a licence to a person with a relevant criminal record could undermine rather than promote the crime prevention objective.

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PART 3

Implementation

Integrating Strategies and the avoidance of duplication

- 3.1 By consultation and liaison, the Authority will secure the proper integration of this Statement of Licensing Policy with local crime prevention, planning, transport, tourism, race equality and equal opportunity schemes, cultural strategies and any other plans introduced for the management of the Borough and the night-time economy. Many of these strategies directly impact upon the four licensing objectives.
- 3.2 Where any protocols agreed with the police identify a particular need to disperse people swiftly and safely from a particular part of the Borough to avoid concentrations which could lead to disorder and disturbance, the Authority will aim to inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.
- 3.3 So far as is possible, the policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators. In order to avoid duplication and to safeguard the rights of applicants the Authority will endeavour to avoid attaching conditions to licences or certificates that duplicate other regulatory regimes
- 3.4 Planning, building control and the licensing regimes will be separated to avoid duplication and inefficiency. Licensing applications will not be a re-run of a planning application and will not cut across decisions taken by the planning committee or following appeals against decisions taken by that committee. On the rare occasions when a terminal hour has been set as a condition of planning permission that is different from the licensing hours, the applicant must observe the earlier of the two closing times.
- 3.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their operating schedule.

Licence Reviews

- 3.6 The Authority can consider a review of a premises licence where it is alleged by a Responsible Authority, such as the Police, Fire Authority or an Interested

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Party, that any of the licensing objectives are being undermined. It views particularly seriously applications for the review of any premises licence which involves the:

- use of licensed premises for the sale and distribution of classified drugs and the laundering of the proceeds of drugs crimes; NPS's and legal highs

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- use of licensed premises for the sale and distribution of illegal firearms;
 - evasion of copyright in respect of pirated films and music;
 - underage purchase and consumption of alcohol;
 - use of licensed premises for prostitution or the sale of unlawful pornography;
 - use of licensed premises for unlawful gaming;
 - use of licensed premises as a base for organised criminal activity;
 - use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
 - use of licensed premises for the sale of smuggled tobacco or goods;
 - use of licensed premises for the sale of stolen goods;
 - police being frequently called to attend to incidents of disorder;
 - prolonged and/or repeated instances of public nuisance;
 - serious risk to public safety;
 - serious risk to children.
- 3.7 The Police may also seek expedited reviews of Premises Licences that authorise the sale by retail of alcohol where they consider that the premises are associated with serious crime or serious disorder. The powers do not apply to Club Premises Certificates.
- 3.8 Where a Closure Order is issued in respect of any premises by the Magistrates Court. This will trigger an automatic review by the Authority.
- 3.9 At a review hearing, the Authority may:
- add conditions to the licence;
 - modify conditions of the licence;
 - remove certain licensable activities from the licence;
 - reduce the hours during which licensable activities may take place;
 - remove the Designated Premises Supervisor;
 - suspend the licence for up to three months;
 - revoke the licence;

Administration, Exercise and Delegations of Functions

- 3.10 All functions of the Authority under the Act, save for the determination of the Statement of Licensing Policy, may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.
- 3.11 Many of the decisions and functions are largely administrative in nature and in the interests of speed, efficiency and cost-effectiveness these are, for the most part, delegated to officers as set out in the Swindon Borough Council Scheme of Delegation.

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- 3.12 In determining applications where the Authority has acted as a responsible authority, there will be a clear separation of responsibilities to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating distinct functions to different officials within the authority, so the Officer presenting the report to the Sub-Committee and advising the Members (for example) will be a different individual to the Officer who is acting as the responsible authority. The Officer acting as the responsible authority will not be involved in the decision making process.

12. Delegation of Functions

Matter to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases

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Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases

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Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

Enforcement

- 3.13 The primary aim of enforcement is to achieve compliance. Though enforcement may be taken to mean the formal approach, it may also include advice and support to business to achieve compliance.
- 3.14 Compliance may be achieved through encouraging a sense of community, improved communication, and proactive work with licensees and businesses. Such proactive work may include training, giving advice and information, and initiatives that educate, inform and encourage partners and stakeholders to work together efficiently and effectively. The principal objective in taking a holistic approach to managing the night time economy is to prevent problems from occurring before they begin.
- 3.15 However, it is recognised that such aims cannot always be achieved, and that active enforcement of the law may be the only effective means of securing compliance. To this end the following enforcement options are available to the Authority:
- verbal or written advice
 - verbal warning
 - written warning
 - mediation between licensees and residents
 - simple caution
 - prosecution

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- 3.16 These actions are not mutually exclusive and it may be that one course of action follows another, depending on the individual circumstances. Additionally, responsible authorities and interested parties may seek a review of a Premises Licence if they feel the licensing objectives are not being

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properly upheld, and the Police have the power to issue Closure Notices against certain problem premises.

- 3.17 Before deciding which course of action to take, the Authority may consider the following matters:
- the history of the premises
 - the relevant history of the offender
 - the offender's attitude
 - the circumstances of the offence
 - whether the offender has a statutory defence to the allegations
 - the impact or potential impact of the breach on the public
 - the quality of the evidence against the offender
 - the likelihood of achieving success in a prosecution
 - the likely punishment that will be incurred if the case goes to Court
 - whether the course of action proposed is likely to act as a deterrent
 - whether the course of action, if it is publicised, is likely to have a beneficial effect on the behaviour of others
- 3.18 Any enforcement action will be both proportionate and risk-based, targeting high risk premises which require greater attention, while applying a lighter touch approach in respect of low risk premises.

Promotion of Equality & Human Rights

- 3.19 In accordance with the duty imposed by the Equality Act 2010, the Authority has due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations, between persons with different protected characteristics, namely age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. A Diversity Impact Assessment has been completed in respect of this Statement of Licensing Policy.
- 3.20 The Authority will also have regard to the Human Rights Act 1998 when exercising its licensing functions, with particular reference to the following relevant provisions:
- ARTICLE 1* of the first protocol - everyone is entitled to the peaceful enjoyment of his/her possessions;
- ARTICLE 6* - in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- ARTICLE 8* - everyone has the right to respect for his/her home and family life.

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Contact Details / Advice and Guidance

- 3.21 Further information about the application processes, including application forms, fees levels, and the contact details for our responsible authorities is available from the Licensing Team and on the Authority's website. Electronic applications and payment may also be made through the website.
- 3.22 Applicants are strongly recommended to make early contact with the Licensing Authority and Responsible Authorities where possible before making an application. Informal discussions can invariably help to resolve potential problems and avoid unnecessary hearings and appeals.
- 3.23 For applicants who are arranging outdoor or special events, it is further recommended that an application is made to Swindon's Event & Safety Advisory Group.

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