

Agenda

Name of meeting	LICENSING COMMITTEE
Date	MONDAY 20 NOVEMBER 2023
Time	4.00 PM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Members of the committee	CLLrs I Ward (Vice-Chairman), D Andre, J Bacon, M Beston, S Ellis, P Fuller, J Jones-Evans, C Mosdell, S Redrup and Vacancy Democratic Services Officer: Sarah MacDonald democratic.services@iow.gov.uk

1. **Apologies and Changes in Membership (if any)**

To note any changes in membership of the Committee made in accordance with Part 4B paragraph 5 of the Constitution.

2. **Minutes** (Pages 5 - 6)

To confirm as a true record the Minutes of the meeting held on 12 June 2023.

3. **Declarations of Interest**

To invite Members to declare any interest they might have in the matters on the agenda.



Details of this and other Council committee meetings can be viewed on the Isle of Wight Council's Committee [website](#). This information may be available in alternative formats on request. Please note the meeting will be audio recorded and the recording will be placed on the website (except any part of the meeting from which the press and public are excluded). Young people are welcome to attend Council meetings however parents/carers should be aware that the public gallery is not a supervised area.

4. Public Question Time

Questions are restricted to matters not on the Agenda. Questions may be asked without notice but to guarantee a full reply at the meeting, a question must be put including the name and address of the questioner by delivery in writing or by electronic mail to Democratic Services at democratic.services@iow.gov.uk, no later than two clear working days before the start of the meeting. Normally, Licensing Committee is held on a Monday, therefore the deadline for written questions will be Wednesday.

5. Urgent Business

To consider any matters which, in the Chairman's opinion, are urgent.

6. Report of the Director of Strategic Director of Community Services

(a) Statement of Licensing Policy 2024 -2029 (Pages 7 - 36)

7. Members' Question Time

To guarantee a reply to a question, a question must be submitted in writing or by electronic mail to democratic.services@iow.gov.uk no later than 4.00pm on Thursday, 16 November 2023. A question may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting.

CHRISTOPHER POTTER
Monitoring Officer
Friday, 10 November 2023

Interests

If there is a matter on this agenda which may relate to an interest you or your partner or spouse has or one you have disclosed in your register of interests, you must declare your interest before the matter is discussed or when your interest becomes apparent. If the matter relates to an interest in your register of pecuniary interests then you must take no part in its consideration and you must leave the room for that item. Should you wish to participate as a member of the public to express your views where public speaking is allowed under the Council's normal procedures, then you will need to seek a dispensation to do so. Dispensations are considered by the Monitoring Officer following the submission of a written request. Dispensations may take up to 2 weeks to be granted.

Members are reminded that it is a requirement of the Code of Conduct that they should also keep their written Register of Interests up to date. Any changes to the interests recorded on that form should be made as soon as reasonably practicable, and within 28 days of the change. A change would be necessary if, for example, your employment changes, you move house or acquire any new property or land.

If you require more guidance on the Code of Conduct or are unsure whether you need to record an interest on the written register you should take advice from the Monitoring Officer – Christopher Potter on (01983) 821000, email christopher.potter@iow.gov.uk, or Deputy Monitoring Officer - Justin Thorne on (01983) 821000, email justin.thorne@iow.gov.uk.

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Please note that all meetings that are open to the public and press may be filmed or recorded and/or commented on online by the council or any member of the public or press. However, this activity must not disrupt the meeting, and if it does you will be asked to stop and possibly to leave the meeting. This meeting may also be filmed for live and subsequent broadcast (except any part of the meeting from which the press and public are excluded).

If you wish to record, film or photograph the council meeting or if you believe that being filmed or recorded would pose a risk to the safety of you or others then please speak with the democratic services officer prior to that start of the meeting. Their contact details are on the agenda papers.

If the press and public are excluded for part of a meeting because confidential or exempt information is likely to be disclosed, there is no right to record that part of the meeting. All recording and filming equipment must be removed from the meeting room when the public and press are excluded.

If you require further information please see the council guide to reporting on council meetings which can be found at <http://www.iwight.com/documentlibrary/view/recording-of-proceedings-guidance-note>

All information that is recorded by the council is held in accordance with the Data Protection Act 2018. For further information please contact Democratic Services at democratic.services@iow.gov.uk

Arrangements for Submitting questions at Meetings:

To guarantee a reply at the meeting, members of the public must deliver their question in writing or by email to democratic.servcies@iow.gov.uk no later than two clear working days prior to the meeting. Each question must give the name and address of the questioner. Any written question received by the deadline stated in the agenda will receive a written response.

A question may be asked at the meeting without prior notice but in these circumstances, there is no guarantee that a full reply will be given.



Minutes

Name of meeting	LICENSING COMMITTEE
Date and Time	MONDAY 12 JUNE 2023 COMMENCING AT 4.00 PM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs I Ward (Vice-Chairman), D Andre, M Beston, S Ellis and P Fuller
Also Present	Ben Gard, Kevin Winchcombe, Regan Matthews and Daniel Power
Apologies	Cllrs G Peace, J Bacon, C Jarman and J Jones-Evans

7. **Apologies and Changes in Membership (if any)**

Apologies were received from Cllrs Bacon, Jarman, Jones-Evans and Peace.

8. **Minutes**

RESOLVED:

THAT the minutes of the meeting held on 13 June 2022 be approved.

9. **Declarations of Interest**

There were no Declarations of Interest.

10. **Public Question Time**

There were no public questions received.

11. **Urgent Business**

There were no items of urgent business.

12. **Report of the Monitoring Officer**

The legal advisor explained that the report was to formalise arrangements for the appointment of a sub-committee to determine applications and appeals. The difference between the full committee and the sub-committee and their roles was clarified.

RESOLVED:

That a licensing sub-committee be appointed of an three members drawn from the Licensing Committee on an ad hoc basis, with the terms of reference as set out in the Constitution, and that it be politically proportionate as far as practicable, with a quorum of three such members.

13. **Members' Question Time**

There were no members' questions.

CHAIRMAN



Purpose: For Decision

Committee Report

Committee	LICENSING COMMITTEE
Date	20 NOVEMBER 2023
Title	STATEMENT OF LICENSING POLICY 2024 -2029
Report of	STRATEGIC DIRECTOR OF COMMUNITY SERVICES

EXECUTIVE SUMMARY

1. This report provides the opportunity for the Licensing Committee to consider the revised Statement of Licensing Policy (Appendix 1) and make a recommendation to Full Council for the Policy to be adopted.
2. If adopted by Full Council the policy will remain in place, unless revised for a period of five years from 31 January 2024.

RECOMMENDATION

- | |
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| <ol style="list-style-type: none">3. Option 1: That the adoption of the draft revised Statement of Licensing Policy 2024 – 2029, be recommended to Full Council. |
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BACKGROUND

4. Under Section 5 of the Licensing Act 2003, a licensing authority is required every five years to determine its policy with respect to the exercise of its licensing functions, and to publish a statement of the principles it proposes to apply.
5. Before determining its policy for a five-year period, the licensing authority must consult various persons and public bodies as stated in the Act.
6. The previous policy ran for five years from January 2019 to January 2024.

7. The new policy has a number of changes, the main ones being:
 - (a) Section 4.7 includes references to campaigns and initiatives, and specifically mentions the 'Ask Angela' initiative and the Violence against Women and Girls campaign.
 - (b) Section 4.13 removes reference to the previous Designated Public Place Orders.
 - (c) Paragraph 7.14 has been added to confirm there is no evidence to support the introduction of a Cumulative Impact Policy.
 - (d) The Late Night Levy provisions has been included at Section 8.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

Economic Recovery and Reducing Poverty

8. Licensing forms a key part of the economic recovery for the island. The hospitality trade has suffered during Covid and licensing throughout the country is assisting in this sectors recovery and sustainability.

Impact on Young People and Future Generations

9. The Protection of Children From Harm is a key licensing objective, this policy aims to ensure safeguarding children's safety.

CONSULTATION

10. A 6-week consultation period commenced on 5 September 2023 and ended on 17 October 2023.
11. Those who were consulted included:
 - Isle of Wight Member of Parliament.
 - All IW Council Members.
 - Town, Parish and Community Councils.
 - Responsible Authorities listed in the Act.
 - Bodies representing the interests of persons carrying on businesses in the licensed trade.
 - Bodies representing the interests of persons likely to be affected by the exercise of the authority's functions.
12. In addition, a full public consultation took place with the consultation being available and advertised through; the Council's Website, Council's social media platforms and the Council's E-newsletter.
13. A total of six responses were received.
14. Three Comments were received from the online survey during the consultation period, all of which have been responded to and have brought no required changes to the reviewed policy.
15. A comment was received from Northwood Parish Council that section 9.11 should be amended to: "The Licensing Sub Committee and committee of elected members

considering review applications will give clear and considered reasons for all decisions".

16. Hampshire and Isle of Wight Fire and Rescue Service provided four amendments to the policy, as follows;
 - (a) Section 6.6d – Change name to Hampshire and Isle of Wight Fire and Rescue Service.
 - (b) Section 7.4 – possible typo - protection of children from harm.
 - (c) Section 11.8 Point to add - Suitable, sufficient and current FRA to be reviewed annually and / or at times of significant change.
 - (d) Section 11.8 point to add - Attendants and marshals suitably trained in the evacuation procedures of the premises =/event.
17. Comment received from Sandown Town Council querying how the Council's Licensing Act 2003 Policy is being advertised. A response was sent informing the Town Council that the policy review was available on the Council's website, Council's social media platforms and Council's E-newsletter.

FINANCIAL / BUDGET IMPLICATIONS

18. Council expenditure on licensing matters is balanced by income generated from fees. Some fees are set by the council and represent the costs of administration and enforcement of licences and permits. Other fees are set by government.
19. Application fees are charged for all licences and permits under this legislation. Annual fees are charged where a premises licence and certain permits are in place, in accordance with the Act.

LEGAL IMPLICATIONS

20. The licensing authority is required to adopt a statement of licensing policy by virtue of Section 5 of the Licensing Act 2003. This policy is required by the same Act to be reviewed every five years. The policy must have regard to any statutory guidance issued by the Secretary of State.

EQUALITY AND DIVERSITY

21. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
22. The EIA completed for this policy indicates that there is no adverse impact on any of the protected characteristics.

OPTIONS

23. Option 1: To recommend adoption of the draft revised Statement of Licensing Policy 2024 – 2029, to Full Council.
- Option 2: To recommend adoption of the draft revised Statement of Licensing Policy to Full Council, subject to any minor amendments proposed, if deemed necessary

RISK MANAGEMENT

24. With regard to Option 1: Should the Council adopt the draft policy; it will come into effect from 31 January 2024.
25. With regard to Option 2: Should the Council decide to amend the draft policy, further consultation may need to be carried out. This would delay the implementation of the new policy until such time as the required consultation had taken place, any further comment incorporated, and the new draft policy adopted. Not having a policy in place could cause difficulties in being able to defend decisions made.

EVALUATION

26. With regards to the comments received from Northwood Parish Council section 9.8 has been amended to now read a 'Licensing Sub Committee' instead of 'A committee of elected members'. Therefore, there is no need to update 9.11 as 9.5 explains what a Licensing Sub Committee is.
27. Those suggested changes by Hampshire and Isle of Wight Fire and Rescue Service have been reviewed and the policy amended accordingly.
28. As there are no outstanding matters to be addressed, it is recommended that the draft revised policy should be recommended for adoption by Full Council.

APPENDICES ATTACHED

29. Appendix 1 – Draft Isle of Wight Council Statement of Licensing Policy 2024 – 2029.

BACKGROUND PAPERS

30. Statement of Licensing Policy 2019-2023 - [Licensing policies \(iow.gov.uk\)](https://www.iow.gov.uk)

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Licensing, Business and Coroner Service Manager
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COLIN ROWLAND
Strategic Director of Community Services



LICENSING ACT 2003 SECTION 5

**Statement of Licensing Policy
January 2024 – January 2029**

Document Information

Title: Licensing Act 2003 – Statement of Licensing Policy

Status: In Consultation

Current Version: For Consultation

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Sponsor: Director of Neighbourhoods

Consultation: TBC

Approved by: Full Council

Approval Date:

Review Frequency: 5 Years

Next Review: January 2029

Version History

Version	Date	Description
1	August 23	For Consultation

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1 Introduction

- 1.1 This policy will commence on xxxxxx and remain in force for five years but will be kept under review subject to further consultation as required.
- 1.2 For the Isle of Wight, the licensing authority is the Isle of Wight Council under the Licensing Act 2003 (the Act) and is responsible for the administration and enforcement of the Act within the Isle of Wight. The Isle of Wight Council is the Licensing Authority for the Act. Any reference to “the Licensing Authority” in this policy refers to the Isle of Wight Council.
- 1.3 Section 5 of the Act requires a Licensing Authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the Act.
- 1.4 During the five-year period, the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.
- 1.5 This document sets out the Isle of Wight Licensing Authority’s policy in respect of its licensing functions for the sale/supply of alcohol, provision of regulated entertainment and the provision of late-night refreshment. The policy will be kept under review, and where any amendments are considered necessary, these will only be made after consultation has taken place in accordance with Section 5(3) of the Licensing Act 2003 (“the Act”).
- 1.6 Further licensing statements will be published every five years thereafter, unless amending legislation dictates otherwise. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182 of the Act (“the statutory guidance”).
- 1.7 The Isle of Wight Council is the Licensing Authority for the Act. Any reference to “the Licensing Authority” in this policy refers to the Isle of Wight Council.
- 1.8 Where revisions are made to the Statutory Guidance by the Secretary of State, it will be for the Licensing Authority to determine whether revisions to its Statement of Licensing policy are appropriate.
- 1.9 Before determining its policy for any five year period, or if revising the policy the Licensing Authority must consult the persons listed in Section 5(3) of the Act. These are:
 - the chief officer of police for the licensing authority's area,
 - the fire and rescue authority for that area,
 - each Local Health Board for an area any part of which is in the licensing authority's area,
 - each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
 - such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
 - such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - such other persons as the licensing authority considers to be representative of businesses and residents in its area.

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- 1.10 The views of all persons/bodies listed shall be given appropriate weight when the policy is determined. A list of consultees is available on request from the Licensing Authority.
 - 1.11 It is recognised that in some areas it may be difficult to identify persons or bodies that represent all parts of the industry affected by the provisions of the Act but the Licensing Authority will make all reasonable efforts to do so.
 - 1.12 This statement is intended to assist officers and members in determining applications and to set down those factors that will normally be taken into consideration. Equally, this document seeks to provide clarity for applicants, responsible authorities, residents and other occupiers of property and investors, with some measure of certainty.
 - 1.13 More detailed information for applicants is available in the booklet 'Guidance for Applicants', available by email or in paper format from the Licensing Authority.

2 Licensing Objectives

- 2.1 The Isle of Wight has many and varied licensed premises and events. The Licensing Authority recognises that these play a vital part in the cultural identity of the Island and are main contributors to the local economy. They attract tourists and visitors and make for vibrant towns and communities, while at the same time providing employment.
- 2.2 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the Act. Where valid representations are made, the Licensing Authority will make objective judgements as to whether conditions need to be attached to a licence, certificate or permission to ensure that the four licensing objectives are promoted at the premises being used for licensable activities and within the vicinity of those premises.
- 2.3 When dealing with licensing matters the Licensing Authority will promote and have regard to the four licensing objectives, which are of equal importance, set out in the Act. These are:
- The prevention of crime and disorder.
 - Public safety.
 - The prevention of public nuisance.
 - The protection of children from harm.
- 2.4 The Licensing Authority recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of the local authority, responsible authorities, local business, performers and local people. In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule (see Section 9 below), will be implemented and maintained, relevant to the nature and mode of operation of their premises and events.
- 2.5 The Licensing Authority recognises that licensable activities are an important part in the cultural life of our community. In regulating activities under this legislation, it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 2.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises, and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation.

3 Licensable Activities

- 3.1 The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events.
- 3.2 Licensable activities are:
- The sale by retail of alcohol.
 - The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club.
 - The provision of regulated entertainment.
 - The provision of late night refreshment.
- 3.3 Subject to certain conditions, definitions, limitations, and exemptions contained within Sections 173 to 175 of the Act, as amended, the provision of regulated entertainment for the public, or club members or with a view to profit, is defined as:
- An exhibition of a film.
 - A performance of a play.
 - An indoor sporting event.
 - Boxing or wrestling entertainment (indoor and outdoor).
 - A performance of live music.
 - The playing of recorded music.
 - Performance of dance.
 - Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music or the performance of dance.
- 3.4 Late night refreshment, which is subject to certain exemptions, is defined in Schedule 2 of the Act and relates to the supply of hot food or drink to members of the public on or from any premises for consumption on or off the premises between 2300hrs and 0500hrs.
- 3.5 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment in certain circumstances. In cases of doubt, advice should be sought from the Licensing Authority.
- 3.6 The Act provides for four different types of authorisations to regulate the provision of these activities:
- Personal licences: To sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.
 - Premises Licences: To use a premises for licensable activities.
 - Club Premises Certificates: To allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
 - Temporary Event Notices (TENs): To carry out licensable activities on a temporary basis.

4 Integration of Strategies & Other Legislation

- 4.1 The Licensing Authority recognises that as part of implementing any cultural strategy it must encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. The absence of cultural provision in an area can lead to an increase in anti-social behaviour.
- 4.2 The successful delivery of the licensing objectives will depend upon the successful integration of this Statement of Licensing Policy with other local crime prevention, planning, transport, tourism, equality schemes and cultural strategies together with any designed to address the management of town centres and the night-time economy.
- 4.3 The Equality Act 2010 replaces previous anti-discrimination legislation with a single act. A key part of the Equality Act 2010 is the requirement to meet the public sector equality duty. The following protected characteristics covered are:
- Age.
 - Disability.
 - Gender reassignment.
 - Pregnancy and maternity.
 - Race (this includes ethnic or national origins, colour or nationality).
 - Religion / belief – this includes lack of belief.
 - Sex.
 - Sexual orientation, marriage and civil partnership (but only in respect to have due regard to the need to eliminate discrimination).
- 4.4 The Equality Act 2010 simplifies the law, removing inconsistencies and making it easier for the local authority to comply by imposing a general duty and specific duties.
- 4.5 The general duty has three aims, to:
- Eliminate unlawful discrimination.
 - Advance equality of opportunity between people from different groups.
 - Foster good relations between people from different groups.
- 4.6 The specific duties require:
- The council to set specific measurable equality objectives.
 - The publication of performance information in relation to the objectives.
- 4.7 The Licensing Authority will consider any local Crime, Disorder and Drugs Strategies where appropriate for the promotion of the licensing objectives and will engage and promote campaigns designed to increase public safety and awareness. Examples of such include Ask for Angela, Violence Against Women and Girls (VAWG) initiatives and anti-spiking campaigns.
- 4.8 Prior to submitting an application to the Licensing Authority, the applicant should note that whilst the Licensing Authority may give authorisation for certain operating hours, the responsibility lies with the applicant to ensure that any necessary planning consents are obtained for the hours and activities for which the application is being made.
- 4.9 The Licensing Authority recognises that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. However, where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, the

Licensing Authority will consider discussion with planning officers prior to determination with the aim of agreeing mutually acceptable operating hours.

- 4.10 The Licensing Authority will seek to avoid attaching conditions that duplicate other regulatory regimes as far as possible. However, if other legislation does not cover the unique situations that may arise, additional controls may be imposed to secure the licensing objectives.
- 4.11 Prevention of disturbance to neighbourhoods will always be carefully balanced with the wider cultural benefits. Care will be taken to ensure that only appropriate and proportionate licensing conditions are attached to licences. Conditions will relate solely to the promotion of the licensing objectives.

Dispersal Policies

- 4.12 People can cause disturbance when returning to residential areas from later-opening premises elsewhere. These problems may not be within the direct control of any licensed premises. However, premises licence holders are generally expected to take measures to encourage people to leave their premises quietly and considerately. The Licensing Authority would encourage premises to adopt a dispersal policy where appropriate.

Public Space Protection Orders (PSPOs)

- 4.13 Public Spaces Protection Orders (PSPOs) propose to deal with a particular nuisance in a particular area which is having a detrimental effect on the quality of life for those in the local community. It can prohibit certain things or require specific things to be done. For example, it may prohibit the consumption of alcohol in a specific place.
- 4.14 The areas covered by PSPOs on the Isle of Wight can be found at [Designated Public Space Orders \(DPPOs\) \(iow.gov.uk\)](http://www.iow.gov.uk)
- 4.15 Failure to comply with the order can result in a fine or a fixed penalty notice.

2 Approach to Licensing Application

- 2.1 Each application will be determined on its individual merits. When considering applications, the Licensing Authority will have regard to this policy and Statutory Guidance. However, this policy and the guidance cannot anticipate every set of circumstances which may arise. Accordingly, the Licensing Authority may depart from them if they have reason to do so. In that event, the Licensing Authority will give full reasons for the decision.
- 5.2 Nothing in this policy will undermine the right of any person to apply under the Act for a variety of permissions and have any such application considered on its individual merits. Similarly, it will not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so in the Act.
- 5.3 Conditions will be tailored to the individual characteristics of the premises and standardised conditions will not be used. However, the Licensing Authority may draw upon a pool of conditions from which appropriate and proportionate conditions may be attached in particular circumstances.
- 5.4 Statutory Guidance encourages the use of the words such as “must”, “shall” and “will” within licence conditions. Guidance also states that conditions must:-
- a) be appropriate for the promotion of the licensing objectives.
 - b) be precise and enforceable.
 - c) be unambiguous and clear in what they intend to achieve.
 - d) not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
 - e) be tailored to the individual type, location and characteristics of the premises and events concerned.
 - f) not be standardised as they may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
 - g) not replicate offences set out in the Act or other legislation.
 - h) be proportionate, justifiable and be capable of being met.
 - i) not seek to manage the behaviour of customers once they are beyond the direct management of the operator and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - j) be written in a prescriptive format.

Takeaway Premises and Premises Providing Late Night Refreshment

- 5.5 The Licensing Authority considers that it will normally be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises (“takeaway” premises).
- 5.6 It is recognised that takeaway premises open late at night can be associated with disorder as people under the influence of alcohol having left, or in some cases being ejected from late night venues congregate there. Applicants are recommended to have clear written policies for dealing with disorder and nuisance.
- 5.7 The schedule of delegations for dealing with matters under the Act is provided at Appendix A.

5 Major Events & Isle of Wight County Council Act 1971, (As Amended)

- 6.1 The Licensing Authority will expect organisers of major festival or other large events to approach the Authority at the earliest opportunity to discuss arrangements for licensing activities falling under the Act, as these events may involve the preparation of a substantial operating schedule. In addition, where it is intended that more than 5000 persons will be in attendance, the provisions of the Isle of Wight County Council Act 1971 will apply. Detailed information regarding this legislation is contained within separate guidance, available from the Licensing Authority.
- 6.2 The Isle of Wight County Council Act requires organisers of events to give at least four months' notice of the event if more than 5,000 people will be permitted to attend.
- 6.3 Notice of an event must be given in writing to the Licensing Department and should be accompanied by:
- a) Purpose of the intended event e.g. music festival.
 - b) Day(s) on which the intended event will be held.
 - c) Duration of the intended event.
 - d) Time(s) during which the intended event will be held.
 - e) Location and limits of the site where the intended event is to be held.
 - f) Maximum number of people attending the intended event.
 - g) Copy of an event safety plan or operating schedule.
 - h) Plan of the site.
- 6.4 Events which require notification under the Isle of Wight Act are likely to be discussed by the Safety Advisory Group.

Safety Advisory Group

- 6.5 The main role of the Safety Advisory Group is to provide specialist advice to the Local Authority to help it discharge its functions under either sports grounds or public events legislation. The Group will also provide advice and assistance to the event organisers to enhance public safety at the event.
- 6.6 The Safety Advisory Group's core membership consists of representatives from the following agencies:
- a) Chair (Appointed by the Isle of Wight Council)
 - b) Licensing
 - c) Hampshire Constabulary
 - d) Hampshire and Isle of Wight Fire and Rescue Service
 - e) Isle of Wight NHS PCT
 - f) Environmental Health Department
 - g) Building Control
 - h) Emergency Management
 - i) Highways Authority
- 6.7 Representatives from other services or bodies may be invited to meetings where required.

7 Cumulative Impact

- 7.1 The Licensing Authority will not take 'need' into account for a particular type of premises on the Isle of Wight when considering a licence application. This is a matter for planning development control and market forces.
- 7.2 The Licensing Authority recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder.
- 7.3 Representations may be received from a “responsible authority” (as defined by section 69(4) of the Act or other person (see 7.1 below) that an area has become saturated with premises making it a focal point for large groups of people. This concentration of premises may be creating exceptional problems of nuisance and disorder over and above the impact from the individual premises.
- 7.4 Any person may request the Licensing Authority to consider developing and adopting a Special Policy providing that they identify concern about one or more of the following:
- crime and disorder.
 - public safety.
 - public nuisance.
 - protection of children from harm.
- 7.5 Any request must be supported with evidence to demonstrate such concerns.
- 7.6 When deciding whether to adopt a “special policy” the Licensing Authority will:
- Identify concern about crime and disorder or public nuisance.
 - Consider whether there is good evidence that crime and disorder and nuisance are happening and are caused by the customers of licensed premises. If so, identifying the boundaries of the area from which problems are occurring.
 - The risk factors may be such that the area is reaching a point when a cumulative effect is imminent.
 - Evidence of anti-social behaviour from the police or Community Safety Partnership and noise disturbance from environmental health officers will be taken into account.
 - Consult with those specified by section 5(3) of the Act, and subject to that consultation,
 - Include and publish details of any special policy as part of the statement of licensing policy.
- 7.7 In these circumstances, the Licensing Authority may decide that the application of specific conditions is unlikely to address these problems. It may instead consider refusing new premises licences or club premises certificates if it believes that the granting of any more would undermine the licensing objectives.
- 7.8 Where a special policy is adopted, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact already being experienced. Where representations are received, the onus will be on the objector to provide evidence that the addition of the premises in question would produce the cumulative impact claimed. It is worth remembering that the impact will be different for premises with different styles and characteristics.
- 7.9 The Licensing Authority may approve licences that are unlikely to add significantly to the cumulative impact, e.g. restaurants, theatres etc.

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- 7.10 Departures from the special saturation policy may be made and so it is not absolute.
- 7.11 The Licensing Authority will always consider the circumstances of each individual application on its own merits. The adoption of a special policy does not relieve responsible authorities or other persons of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to its special policy.
- 7.12 Once adopted, the special policy, or policies, will be reviewed regularly to assess whether they are still required or need expanding.
- 7.13 A special policy will not be used as a ground for revoking existing premises licences or certificates when representations are received about problems with those premises. Cumulative impact relates to the effect of a concentration of many premises and so identifying individual premises in the context of a review would be arbitrary. The special policy will also not impose any trading hours, terminal hours or quotas (number or capacity of premises) as this would remove regard to the individual characteristics of the premises concerned.
- 7.14 At this time there is no evidence to support the production of a Cumulative Impact assessment or to suggest that the number of premises licences and/or club premises certificates in one or more parts of the island is such that the granting of further licences would be inconsistent with the authority's duty to promote the licensing objectives.

8 Late Night Levy

- 6.1 The Licensing Authority acknowledges that the Police Reform and Social Responsibility Act 2011 enables a licensing authority to charge a levy on persons who are licensed to sell alcohol late at night in the authority's area (between midnight and 06:00 hours), as a means of raising a contribution towards the costs of policing the late-night economy. The option of introducing such a levy will be kept under review by the Council.
- 6.2 The Council will work with the Licensed Premises who form the night-time economy to ensure as reasonably practicable that their business does not have a detrimental effect on Regulatory and 999 Services along with the communities they operate within.

9 Representations, Reviews, Appeals & Complaints

- 7.1 Any person may make representations to the licensing authority in writing on any application for grant, variation or for the review of a premises licence.
- 7.2 The licensing authority must give appropriate weight to the representations (including supporting information) presented by all parties.
- 7.3 An aggrieved person whose representation is not regarded as “relevant” or is determined as “vexatious” or “frivolous” or “repetitious” may challenge the authorised officers’ opinion by way of the Isle of Wight Council’s complaints procedure or through the courts by way of judicial review.
- 7.4 If valid representations are received during a consultation period and remain outstanding once the consultation has ended, then a meeting of the Licensing Sub Committee must be convened in order to determine the application.
- 7.5 The Licensing Sub Committee consists of three elected members and will hear applications where representations have been received.
- 7.6 Hearings will normally be held in public except where the Licensing Authority considers that it is in the public interest to exclude the press and public from all or part of the hearing.
- 7.7 The Licensing Authority can only review a licence where it is alleged that the licensing objectives are not being met. The Licensing Authority will hold a review hearing to consider the merits of an application or licence where the representation is considered relevant. In order to be relevant, it must relate to the effect of the licence on the promotion of at least one of the licensing objectives. A hearing will be held unless authorised officers make the decision that the application is repetitive or is vexatious or frivolous.
- 7.8 A Licensing Sub Committee will consider review applications. Review applicants, licence holders and any other person who has made a relevant representation will be informed of the hearing procedure and invited to attend such hearings to present their case. Hearings will be held promptly so that the issue can be dealt with efficiently and effectively.
- 7.9 Whilst arrangements for a review hearing are initiated, authorised officers of the Licensing Authority will make an effort to consult with the licence holder and review applicant in an attempt to resolve any issues prior to the hearing.
- 7.10 Following a review hearing the Licensing Authority may:
- Modify the conditions of the licence.
 - Exclude a licensable activity from the scope of the licence.
 - Remove the designated premises supervisor.
 - Suspend the licence for a period (not exceeding three months).
 - Revoke the licence.
- 7.11 The Licensing Sub Committee will give clear and considered reasons for all decisions.
- 7.12 The Act contains provision for appeals by aggrieved parties against decisions made by the Licensing Authority. Any appeal must be made to the Magistrates’ Court.
- 7.13 The rights of appeal and reasons for the decision(s) taken by the Licensing Authority will be provided in writing to all parties concerned with any licensing decision.

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- 7.14 The Licensing Authority will make comprehensive records of any hearing held in connection with its licensing functions under the Act, which will include the recording of hearings.
- 7.15 Any complaints in respect of procedural matters should be addressed via the Council's Complaints procedure in the first instance.

8 Enforcement

- 8.1 The Licensing Authority will establish enforcement protocols with the local Police and the other authorities on enforcement issues. This does not prohibit the Licensing Authority from taking independent action.
- 8.2 The aim of such protocols will be to target higher risk and problem premises which require greater attention, while providing a lighter touch in respect of low risk premises or those which are well run.
- 8.3 The principles of risk assessment and targeted inspection will prevail, and inspections of licensed premises will not be undertaken routinely but when and if they are judged necessary.
- 8.4 When judged necessary to do so, authorised officers of the Licensing Authority and responsible authorities will from time to time carry out unannounced inspections or test purchase visits to licensed premises in order to ensure compliance with the provisions of the Act and any other associated legislation.
- 8.5 Any enforcement action instigated by the Licensing Authority will be in accordance with the Regulatory Services Enforcement Policy, available in paper format from the Licensing Authority.
- 8.6 The Council will strictly enforce the powers to suspend licences for non-payment of annual fees in accordance with Section 55a of the Act.

9 Operating Schedules

- 10.1 The Operating Schedule forms part of the completed application form for a premises licence. Specific requirements on what it should contain and how it should be presented are contained in Section 17 of the Act and in regulations. However, general policies relevant to each of the licensing objectives are detailed below.
- 10.2 Any measures outlined in the operating schedule, where relevant to the four licensing objectives, will be incorporated as conditions within the licence and will become enforceable.

Prevention of Crime and Disorder

- 11.3 Licence holders are seen as playing a key role in the prevention of crime and disorder and must address this issue in their operating schedule. The range and scope of control measures will depend on a number of factors including the:
- Nature and style of the venue.
 - Activities being conducted there.
 - Location of the premises.
 - Anticipated clientele of the business involved.
- 11.4 To demonstrate to the Licensing Authority that adequate provision has been made, consideration should be given to including the following, where appropriate, within the Operating Schedule:
- Staff training as regards roles and responsibilities within the Licensing Act
 - Incident records, including refusals logs.
 - The use of plastic or polycarbonate glassware, particularly in venues where licensable activities take place after 2300hrs, or in the case of large or outdoor events where the risk of disorder or injury resulting from broken glass is raised.
 - The provision of door staff.
 - The imposition of a last entry time.
 - The provision of CCTV.
- 11.5 The Licensing Authority will expect licence holders to have adequate management practices in place as well as suitable training for staff, to ensure that sales of alcohol are not made directly or indirectly to persons under the age of 18. Practices also need to be in place to ensure that sales are not made to persons who are either drunk or, in the opinion of the member of staff, may be reasonably expected to commit crime and disorder.
- 11.6 The Licensing Authority commends initiatives such as Pubwatch and will strongly encourage all retailers of alcohol to take part in such a scheme, as active membership will be seen as an indicator of attempts to reduce crime and disorder.
- 11.7 The Licensing Authority will also expect licensees to be aware of the misuse of drugs and take all reasonable steps to prevent the entry of drugs into the licensed premises. Licensees must take appropriate steps to prevent drugs being supplied within the premises.

Public Safety

- 11.8 Applicants must indicate in their operating schedule the steps proposed to ensure public safety.

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- 11.9 To demonstrate to the Licensing Authority that adequate provision has been made, the following should be included, where appropriate, within the Operating Schedule:
- Details of the occupancy numbers to be permitted in the premises, and the management arrangements to ensure they are not exceeded.
 - A copy of the emergency procedure plan.
 - Details of fire safety provisions and escape routes from the premises to a place of ultimate safety with any significant features should be identified on the plan accompanying the application and described in the operating schedule.
 - Attendants and marshals suitably trained in the evacuation procedures of the premises / event.
 - A suitable, sufficient and current FRA to be reviewed annually and / or at times of significant change.
 - Supporting evidence demonstrating adequate maintenance of fire safety provisions and systems, e.g. current servicing certificates.
 - Adequate provision for the safety of persons with disabilities or impairments.
 - Adequate provision of safe ingress and egress to the premises at all times when in use.
 - Suitable recording of maintenance, tests and training.
 - Testing of electrical wiring and systems (temporary and permanent)
 - Suitable access for emergency vehicles.
 - Adequate arrangements for the provision of first aid equipment.
 - Adequate safety for indoor sports entertainment.
 - Adequate numbers of attendants and marshals.
 - Adequate arrangements for the safe use and storage of equipment, used for special effects.

The Prevention of Public Nuisance

- 10.8 The Licensing Authority is committed to reducing the adverse impact of licensable activities, whilst not unduly restricting the legitimate desire of licensees to provide such activities.
- 10.9 Activities involving regulated entertainment or eating or drinking on the premises have the potential to impact adversely on the surrounding area. The impact of noise generated by these activities and customers departing either on foot or in cars can be particularly intrusive at night when ambient noise levels are much lower.
- 10.10 More strict conditions with regard to noise control will be expected in certain areas of the Island, which have denser residential accommodation or low levels of background noise but this will not justify limiting opening hours without regard to the individual merits of any application.

Noise Controls

- 10.11 The operating schedule must have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. The Licensing Authority will expect the schedule to demonstrate how it is intended that the premises will be “good neighbours” to residents and to other venues and businesses. Businesses should have regard to relevant guidance.

Noise Conditions

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- 10.12 Consideration may be given to conditions for the prevention of public nuisance, to ensure that:
- Noise or vibration does not emanate from the premises so as to cause a nuisance to the occupants of nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, (whilst providing adequate mechanical ventilation).
 - Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
 - The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.
 - Prohibit certain rooms from being used for purposes that create noise.
 - The use of explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in surrounding areas are restricted.
 - Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level.
 - Installing soundproofing measures to contain sound and vibration.
 - Restrictions on the location and use of areas designated for smoking.
- 10.13 The Licensing Authority will expect the applicant to propose practical steps as to how disturbance to local residents will be prevented and the following general issues should also be covered in the operating schedule:
- The establishment of an appropriate noise assessment procedure.
 - The establishment of monitoring systems to demonstrate compliance with noise policies and with any specific noise restrictions.
 - The establishment of an internal communications procedure for dealing with noise issues.
 - The establishment of methods for logging and responding to noise complaints within appropriate time limit.
 - The provision of general advice and training on noise control to employees.
- 10.14 Applicants are encouraged to liaise with Responsible Authorities as appropriate when drafting operating schedules as this could reduce the likelihood of representations being received.

External Areas

- 10.15 The introduction of the requirement for smoke free public places under the Health Act 2006 has led to an increase in the number of people outside licensed premises. The provision of tables and chairs outside premises can enhance the attractiveness of a venue, but regard should be had to the need to ensure that the use of such areas will not cause nuisance to the occupiers of other premises in the vicinity. In particular, those with authorisations are expected to manage persons smoking in the vicinity of premises so they do not impede access to the premises and do not cause disturbance. In addition they are expected to provide secure ash trays or wall mounted cigarette bins for patrons so as to minimise litter.
- 10.16 Licensees should also be aware of the possibility of breakages of drinking glasses and glass bottles in outside areas. Consideration should therefore be given to the use of toughened or “plastic” drinking vessels and other management controls to avoid or lessen the likelihood of broken glass in these areas.
- 10.17 The leaving of tables and chairs and other street furniture on the public highway requires the permission of the local authority under the Business and Planning Act 2020 or the Highways Act 1980. Permissions issued under this legislation requires street furniture to be removed outside of the hours permitted. Operating schedules are expected to address adequately

potential crime and disorder and public nuisance issues that may arise and show how the adverse impact would be avoided, this may include proposals for removing the tables and chairs before certain times, or otherwise effectively limiting or preventing their use outside certain hours.

Anti-Social Behaviour

- 10.18 It is self-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.
- 10.19 If premises are open after 2300hrs it will be expected that:
- The premises will have an operating schedule agreed with the Licensing Authority that indicates the applicant is taking appropriate steps to comply with the licensing objectives of preventing public nuisance and the prevention of crime and disorder.
 - There will not be any increase in the adverse impact from these or similar activities, on adjacent residential areas.
 - There is a particularly high level of public transport accessibility to and from the premises at the appropriate times.
 - The activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets.
 - There will be minimal adverse impact relating to the conduct of customers outside the venue or in any garden or smoking area.

Exterior Lighting

- 10.20 Exterior lighting and security lighting must be positioned to reduce light pollution in neighbouring residential properties.

Odour/litter

- 10.21 Where appropriate consideration of the actual or intended controls over odour and litter should be addressed in the operating schedule. This should include measures to control any smoking related litter generated by customers in the vicinity of the premises.

Protection of Children from Harm

- 10.22 The Licensing Authority does not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm to them. This policy cannot anticipate every issue of concern that could arise in respect of children and individual premises. Consideration of the individual merits of each application remains the best mechanism for judging such matters.
- 10.23 Conditions requiring the admission of children to any premises will not be imposed. This will remain a matter for the discretion of the individual licence holder, club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may volunteer such prohibitions and restrictions in their operating schedules if they have determined that the presence of children is undesirable or inappropriate.
- 10.24 The Licensing Authority will pay particular attention to ensuring the protection of children in the following circumstances:

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- Where enforcement action has been taken against a member of staff for selling alcohol to children or where the premises has acquired a reputation for underage drinking.
 - Premises with a known association with drug taking or drug dealing.
 - Where there is a strong element of gambling on the premises.
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
 - Where entertainment or services of an adult or sexual nature are provided.
- 10.25 Entertainment or services of an adult or sexual nature will include topless bar staff, striptease, lap dancing, table dancing or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. In such circumstances it will usually be appropriate to impose a condition to exclude any person under the age of 18.
- 10.26 It is expected that any operating schedule will demonstrate how the licence holder will ensure that no harm comes to any child by virtue of the licensable activities. The range of alternatives for limiting access to children include:
- Limitations on the hours when children may be present.
 - Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place.
 - Limitations on the parts of premises to which children might be given access.
 - Age limitations below 18.
 - Requirements for accompanying adults.
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 10.27 Where there is provision of entertainment specifically for children (e.g. a children's disco) or where the children themselves are performers, the Licensing Authority will require the presence of sufficient adults to control the access and egress of the children and ensure their safety.
- 10.28 The Licensing Authority expect licence holders to include in their operating schedule arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification (BBFC) at www.bbfc.co.uk.
- 10.29 Where the exhibition of films is permitted the authority will expect the age restrictions of the BBFC in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Licensing Authority and then only with appropriate safeguards.
- 10.30 For specialist film festivals where it is desired to show films not classified by the BBFC, the Licensing Authority will, provided adequate notice has been given, classify the films concerned. The Licensing Authority will use the guidelines published by the BBFC to do this. This information will be published on the Licensing Authority's website.
- 10.31 In respect of licensing matters the Licensing Authority, recognises the Isle of Wight Council's Directorate of Children's Services as responsible for children and young persons and as the Responsible Authority in relation to the protection of children.

12 Data Protection

- 12.1 The Isle of Wight Council is the data controller for the personal information provided by an individual on any application, notice or notification of interest submitted under the Licensing Act 2003. The council's Data Protection Officer can be contacted at dpo@iow.gov.uk. You can contact the council by phone on 01983 821000, or by writing to us at County Hall, High Street, Newport, IW PO30 1UD.
- 4.2 Information will be used to allow the Council to process any applications or authorisations applied for under the Licensing Act 2003. In accordance with Data Protection law, the legal basis for this is for the performance of a task carried out in exercise of official authority. Information will be shared with other council departments and external bodies including the Police for the purposes of processing applications and/or authorisations.
- 4.3 We will keep personal data for 6 years or as long as we are required to do so under relevant legislation or in accordance with our operational requirements. Our retention schedule can be viewed on our website www.iwight.com..
- 4.4 For further details on how information is used; how we maintain the security of information; and the rights of an individual, including how to access information we hold on you, and how to complain if you have any concerns about how personal details are processed, please visit www.iwight.com or email dpo@iow.gov.uk..
- 4.5 The Act requires the Council to keep a register of:-
- a) A record of each Premises Licence, Club Premises Certificate and Personal Licence issued by it.
 - b) A record of each Temporary Event Notice received by it.
 - c) Details of various applications and notices received by the Council (as set out in Schedule 3 of the Act); and
 - d) Such other information as may be prescribed.

13 Related Documents

- Licensing Act 2003: <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Licensing Act S18: <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Schedule of Delegations

Appendix A

Matter to be dealt with	Sub-Committee	Authorised Officer
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, repetitious or vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Application for minor variation of a premises licence or club premises certificate		All cases

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