

**Alcohol And Entertainment Committee
11 September 2018
Alcohol Policy Representation Response**

Representation	Comment	Action Recommended
<p>06.08.2018 <u>Andrew Ludlow</u> <u>Secretary Nottingham CAMRA</u></p> <p><u>Licensing Act 2003 Statement of Licensing Policy 2019-2024</u> At the last committee meeting the proposed Broxtowe Council Statement of Licensing Policy for the next four years was considered. A number of points were made and I have been asked to forward the following observations:</p>	<p>Policy is for 5 years</p>	<p>No action required.</p>
<p>1. Under 4.3 the point is made that ‘licensing policies are not currently required to address Public Health concerns’. The paragraph however then goes on to outline a whole series of public health concerns without making any mentions of the positive effects that pubs have on local communities. Not only do pubs provide the only environment where alcohol consumption is monitored (unlike supermarkets) but they also help treat the growing social problem of loneliness. This is backed up by recent research from the University of Oxford (*1) and the government even have a Government Minister (Tracey Crouch MP) for loneliness. I would suggest that this and other paragraphs needs rewriting to show a more balanced approach and not simply</p>	<p>Para 1.3 recognises the benefits of licensed premises and whilst health is not a licensing objective, the Director of Public Health is the nominated person responsible for responding to applications on behalf of public health teams.</p> <p>The policy concerns the sale of alcohol both in on licensed and off licensed premises.</p> <p>The House of Lords Select Committee also noted: Conclusion / Recommendation 22: Promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but we accept that it is not appropriate as a licensing objective.</p>	<p>Noted. No action</p>

<p>reflect the anti-alcohol lobby.</p> <p>In the last few days further research has been published that actually shows the benefit of moderate drinking reduces the risk of dementia (*2)</p> <p>*1 <i>'Functional benefits of (modest) alcohol consumption'</i> *2 <i>Published in the British Medical Journal (BMJ) the data showed abstinence in midlife was associated with a 45% higher risk of dementia compared with people who consumed between one and 14 units of alcohol per week</i></p>	<p>Government response</p> <p>The Government is committed to working with public health organisations and professionals, in particular Public Health England, to support local areas to tackle the public health harms associated with excessive alcohol consumption. Public health teams have an important role to play in the licensing system, and that is why they have a statutory role as a responsible authority under the 2003 Act.</p> <p>The general tenor of the policy is not anti-alcohol and it is not proposed to rewrite any part of the policy with respect to this comment.</p>	
<p>2. Under 7.21 the authority is indicating that although the 'consumption of alcohol' is not a licensed activity it intends effectively making it so in the case of gardens and outside areas. This seems a clear case of exceeding the intentions of legislation and seems an unreasonably imposition. The Local Authority already has powers under the Noise Act 1996 to deal with noisy neighbours.</p>	<p>It is an established fact of law that on sales relate to the licensed area. If a premises does not have the authorisation to sell alcohol for consumption off the premises, drink in a beer garden would be breaking the law.</p> <p>The issue is not the consumption of alcohol but the permission to sell alcohol for that purpose.</p> <p>The Noise Act 1996 has no relevance to this.</p>	<p>Noted. No action</p>
<p>3. Whilst it is accepted that the Authority has to take into account Crime & Disorder obligations it is felt that social wellbeing of the local citizens should also be a factor in any policy (*3). There has been a growth recently of micro-pubs and these are providing a much need community service as increasingly the larger pubs have sought to capture the more lucrative market (Food, entertainment and Sports).</p>	<p>Wellbeing is not a licensing objective and cannot therefore be taken into account when considering applications.</p> <p>The principle of micro pubs is welcomed and the Council has granted licences for a number of them in the past few years. However, many of the premises will require planning permission due to change of use or location. In many cases due to location, planning will grant limited</p>	<p>Noted. No action.</p>

<p>Micro-pubs provide local employment; tend to sell local beers (empowering local business) and are local community hubs providing a local refuge for those who wish to interact with other people.</p> <p>Our proposal is that micro-pub applications should be treated in a slightly different way with a more flexible approach to opening hours and use of outdoor areas. The Licensing Act 2003 allowed for a more relaxed approach to opening hours anticipating that this would encourage a more relaxed attitude to drinking. Whilst this has not always been achieved it would only seem reasonable to allow micro-pubs the option to open until midnight, where economically it make sense, as the majority of the users of micro-pubs live locally and this would encourage them to stay locally.</p> <p>The Authority and the Police have an abundance of powers to deal with unruly establishments and our recommendation is that where there may be some concerns that temporary approval should be granted and renewed on the basis of the pubs continuing good and proper management.</p> <p><i>*3 Friends on Tap – The Role of pubs at the heart of the community. Professor Robin Dunbar, Department of Experimental Psychology, University of Oxford. January 2016.</i></p>	<p>opening hours to protect public amenity and it is this that would normally dictate the opening hours.</p> <p>There is no scope or legal standing to consider such applications any differently to any other. As far as the Licensing Act 2003 is concerned, if an application receives no representations, it must be granted as applied for. However, if representations are received, the application is subject to a statutory process whether large or small', on or off sales, or of course late night refreshment.</p> <p>There is no legal facility to grant a temporary licence in the manner suggested.</p>	
<p>Insp 3540 Ruby Burrow County Operations</p>	<p>It is considered that the response has some merit. The proposed response will be considered by the</p>	<p>Noted. Action to be agreed by NALG</p>

<p>Nottinghamshire Police</p> <p>There is no mention of vulnerability within the policy. Whilst the awareness of and action taken to prevent vulnerability is not one of the 4 licensing objectives it is nonetheless obviously important. There are references to actions that venues should take that would reduce vulnerability eg the suggestion of providing a taxi call point – this is under the heading of reducing crime and disorder.</p> <p>Is there anything that could be put in to specifically address the issue of vulnerability – the link between excessive alcohol making people more likely to be vulnerable, a suggestion that venues have a responsibility for the wellbeing of their patrons, a suggestion that venues engage with any vulnerability training they are offered by responsible authorities, a suggestion they engage with schemes such as the “Ask Angela” scheme, provision of basic facilities to assist patrons in need such as phone chargers, bottles of water, a room where vulnerable people can wait to be collected by taxi or other transport.</p>	<p>Nottinghamshire Authority Licensing Group (NALG) on 6th September to agree common wording of the policy.</p> <p>Para 7.14 to be amended to include: Examples of recommended management practice for the protection of children and Vulnerable Adults Exclusion from the premises in certain circumstances. Implementation of a robust proof of age scheme. Training staff in their responsibility not to serve to a person when drunk Encouraging staff to attend vulnerability training Providing facilities to support vulnerable adults when assistance is required. (access to phone and/or charge, cold water, safe room away from others)</p>	<p>06.09.2018</p>
<p>Punch Taverns Response</p> <p>Punch is one of the UK's largest leased pub companies, with around 1300 pubs across the UK. From the spirit of our local community pubs, the energy of our lively city centre hot spots and sports bars, to the warmth and calm of our inviting country inns; our pubs are the heart of all we do.</p>	<p>General information</p>	<p>Noted. No response required.</p>

We are a business of people that love pubs! With a mixed estate of high quality leased, tenanted and retail pubs, our years of experience have enabled us to develop a leading proposition for those wishing to work with us and run a pub business of their own. We provide industry leading, tailored business support to our Publicans and develop market-leading, flexible agreements and retail concepts to suit all aspirations.

Under the ownership of Patron and May Capital, we have exciting plans to grow our business: longer term through potential acquisition opportunities and – in the here and now – by substantially investing in our teams, our pubs and Publicans.

Corporate Social Responsibility (CSR) is embedded across many elements of our business, from corporate fundraising to responsible retailing. We have dedicated teams in place to assist in ensuring that our premises operate to the highest standards. We strive to ensure that our pubs are not operating irresponsible drinks promotions or serving underage drinkers or those who are intoxicated.

The Punch Buying Club, our online ordering and communications portal, also has a section dedicated to Risk Management providing our Publicans with a wide range of downloadable educational tools, advice and pub-friendly materials, which can be used pub managers and team members.

As supporters of Drinkaware we do not condone irresponsible promotions and pricing of alcohol, and we

<p>have actively supported Drinkaware’s campaigns to help tackle binge drinking amongst 18 to 25 year olds. Responsible retailing forms a key part of our Publican training and we provide clear guidance on current legislation and best practice. We also support industry led initiatives to promote responsible retailing and are active members of industry trade bodies such as British Beer Pub Association (BBPA) and the British Institute of Innkeeping (BII).</p> <p>We are pleased to be able to contribute to this consultation, we have always prided ourselves with working with Local Authorities and Responsible authorities.</p> <p>We would like to make the following points some which are specific to the policy and referenced and some which are more general which we would ask be taken into account.</p>		
<p>1. Cumulative Impact Policy (CIP's)</p> <p>We note that that the Council is satisfied at the moment that a CIA is not necessary for the Borough. We support this stance. Cumulative impact policies can have the effect of dissuading operators from even attempting to get a licence. This unintentionally penalises operators considering smaller more novel applications (simply because of the prohibitive cost), often resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy in the CIP. For the same reason, such policies also promote ubiquity and stagnation as the only</p>	<p>The Council has no Cumulative Impact Policy at present. The comments are noted.</p>	<p>Comments noted. No response required.</p>

<p>operators willing to take on the risk and outlay of applying in cumulative impact zones are larger established chains with the financial backing to fight for a licence. Given the plight of the pub market 5 years ago and now the casual dining market, in part because their offers failed to change as the market developed around them, town centres, particularly those with CIPs, are struggling to attract operators and employment.</p>		
<p>2. Combined Strategies</p> <p>We are pleased to see a section on Strategic Links and other Regulatory regimes.</p> <p>Licensing policies works best when they reference, and indeed work with, other council strategic plans and policies. For instance, planning strategies and local cultural strategies often inform applicants for either new licences or variations to licences as to what the council are looking to do in terms of promoting culture, leisure use and night-time economy uses in a particular area. Often it can be difficult to find these documents online and therefore reference to them and indeed a general statement that the authority will take into account other strategies is both a pertinent and effective means of ensuring the local authority's medium and long-term plans are fully realised.</p>	<p>The comments are noted</p>	<p>No response required.</p>
<p>3. Other Relevant Legislation</p> <p>We are pleased to note that the Guidance issued under Section 182 of the Licensing Act has further emphasised the point that licensing should not duplicate other</p>	<p>A list of other relevant legislation is contained in the Statutory S182 Guidance to Licensing Authorities published by the Home Office. This document is</p>	<p>Noted. This will be discussed at NALG on 06.09.2018.</p>

<p>relevant legislation. However, in our experience policy does not always make it exactly clear what this means for applicants. For instance, it is often the case that references to nuisance are not necessarily references to public nuisance and indeed references to nuisance in general can conflict with enforcement powers of responsible authorities and others under other legislation. It would be helpful therefore if this matter could be clarified in the policy under a heading of "other relevant legislation".</p> <p>As an additional point, we note that reference in the guidance has been added to the Regulator's Code that came into force in April 2014. This is a critical document in that it sets out the obligations of regulators to those they regulate and therefore establishes how such relationships should work. We feel that these needs to be given reference within your policy in order that all parties understand that the terms of the Regulators Code will be enforced in all dealings between responsible authorities and premises licence holders.</p>	<p>updated on a regular basis and any such list is best placed there.</p> <p>There is no mention of the Regulators Code in this policy. However we do have a General Enforcement Statement.</p> <p>10 GENERAL ENFORCEMENT STATEMENT</p> <p>10.1 All decisions, determinations, inspections and enforcement action taken by the Authority will have regard to the relevant provisions of the Licensing Act 2003, national guidance, relevant codes of practice and the enforcement policy of the Council</p> <p>10.2 The Authority has established and maintains enforcement protocols with the local police and other relevant enforcement agencies.</p>	
<p>4. GDPR</p> <p>We note that the policy does not make reference to the GDPR. One of the most significant changes in recent times has been the change to data protection legislation introduced via GDPR. Whilst the obvious effects of this regulatory change relate to protecting personal data held</p>	<p>The detail of any requirement for CCTV is not a consideration for the Licensing Authority. This is a matter for the applicant to consider. If providing information through a condition on the premises licence was considered to be a breach of GDPR, then the</p>	<p>Noted. No action to be taken.</p>

on behalf of individuals, such as social media, mailing lists, email data bases and various other forms of storage of someone else's data, there are other effects that need to be reflected in licensing policy.

For instance, the requirement for CCTV at a premises licence is not only expensive to install, but we question the value of such systems in terms of crime prevention and detection, especially in smaller community pubs. However, it is now commonplace for police to demand CCTV in almost all premises and to insist upon complicated and demanding CCTV condition's to be added to premises licences. In addition, operators of CCTV systems have to consider the GDPR implications. In particular, anyone who stores data, including CCTV footage of individuals, which is classed as data for the purposes of GDPR, must be responsible for its safe collection, storage, usage and disposal. Handing over CCTV footage to Police officers in the active investigation of a criminal offence, such as a fight, would obviously be a legitimate reason for providing data. However, a condition with a general requirement to hand over CCTV at the behest licensing officer or police officer would arguably breach GDPR were it to be enforced. This means that there are numerous CCTV conditions on licences that would likely, were one to try and enforce them as they are written, cause an operator to breach GDPR.

Similarly, club scan conditions need to be thought about in terms of GDPR and the obligations of the data holder. For instance, the time for which any data is stored and the purpose for storing that data needs to be made clear

applicant would have to take a view and justify any action to be taken. Likewise any request for such information would require the same consideration.

Conditions are agreed between applicants and responsible authorities usually prior to an application being made. Such conditions are then included within the Operating Schedule as part of the application. The licence would be issued with the agreed conditions attached.

It is not within the remit of licensing authorities to amend or alter conditions, nor is it within the ambit of the policy. There is a legislative process for such matters and premises licence holders are responsible for initiating the process by minor or full variation, depending upon the variation requested.

<p>to people handing over their data. Again conditions that require such data to be handed over at the behest of an officer other than in investigating a criminal offence would in all likelihood breach GDPR.</p> <p>We feel therefore that this need to be addressed in the policy in order to ensure that conditions are updated to ensure compliance and that CCTV in particular is not being universally required where there is no real and pressing need for it.</p>		
<p>5. Conditions</p> <p>Whilst Punch Taverns recognise the importance of conditions on premises licences in certain circumstances, such as to prevent or to mitigate the potential risk of certain activities undermining the licensing objectives, we have a concern that more and more conditions are being placed on a licence that are then enforced as breaches of the licence in their own right.</p> <p>Licensing authorities are obliged to promote the 4 licensing objectives. Breaches of condition in and of themselves are an offence under Section 136 of the Licensing Act and on summary conviction can lead to an unlimited fine and/or up to 6 months in prison. It is important that this distinction is recognised in your policy and that breaches of condition in and of themselves are a matter for the Courts; whereas an undermining of the licensing objectives, which can happen with or without conditions being on the licence in any event, are the province of the licensing authority to deal with. We</p>	<p>There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory.</p> <p>Mandatory conditions are a legal requirement, subject to the activities of the licence.</p> <p>Imposed conditions are those which are placed on the licence following a hearing. The hearing may be for the grant, variation of a licence or review.</p> <p>Proposed are those which the applicant has included in his Operating Schedule as part of the application.</p> <p>If a licensee is not happy with the conditions, it is incumbent upon them to enter into a dialogue with the relevant responsible authority to resolve the matter, not to ignore the condition. Licensing authorities are in general happy to facilitate such a dialogue.</p> <p>At no point do licensing authorities put conditions on a licence of their own volition. This is not an officer</p>	<p>Noted. No action taken.</p>

<p>would suggest that this distinction is made in your policy as it will re-enforce the message both for responsible authorities and for operators who hold premises licences in your area.</p> <p>Punch has always been happy to work with licensing authorities in relation to conditions being imposed on a licence where they are necessary and proportionate to achieve an identifiable aim. However, we are concerned with the prevalence of standard conditions being used across all licences within any particular class, This has taken over from a proper analysis of the need for such conditions in the first place.</p> <p>In particular, we have seen a rise in conditions being imposed upon premises licences by responsible authorities, irrespective of the nature of the application being made. For instance, a variation to the plans attached to a licence to effect a simple alteration in layout and where there is no change in licensable activities, increase in customer area, or removal of internal lobbies, for instance, sometimes result in officers seeking to ride on the back of that application to impose conditions that are in no way relevant to it. The case of Taylor v Manchester City Council makes is clear that any conditions imposed on a premises licence when it is varied must relate to that application itself and should not stray into other areas that are not part of the application. It is important again that this is referenced in policy in order to prevent unnecessary hearings and often additional expense to applicants seeking to make simple changes to their licence but are then held to ransom by responsible authorities who know that</p>	<p>decision!</p> <p>Each licensed premises is unique and will be considered in its' own right. Whilst breaches of condition are ultimately matters for the court, a stepped approach to compliance would normally be the way forward with the enforcement process. Undermining the Licensing Objectives can occur in many ways and the licensing authority is keen to support good management of premises. In fact this is reinforced throughout the policy.</p> <p>Much of this area of response is general in nature and the practices described within are not those seen across Nottinghamshire or indeed in Broxtowe.</p> <p>The policy is clear in its view of the status of conditions (see 7.17-19).</p> <p>It is the role of licensing officers to inspect licensed premises and to ensure that conditions are complied with. If an operator is unhappy with the terms of the licence, he/she should apply to vary. There is no justification for non-compliance. Licensees have a legal duty to operate within the terms of that licence.</p> <p>Compliance is what will free up resources for enforcement.</p>	
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operators are unlikely to challenge their right to impose such conditions where the cost would be sent the matter to a hearing.

We submit that the imposition of large numbers of conditions on a premises licence is self-defeating. Premises licences form one part of a significant number of regulatory requirements that must be observed by publicans and this is often forgotten by regulators who often only think in terms of their one area of expertise. This means that they often do not see the wood for the trees. Policies that set out an expectation of long operating schedules or worse, require officers to object to applications unless the applicant applies their standard conditions, place an unnecessary burden on operators without necessarily helping to promote the licensing objectives. The City of London licensing authority, for instance, will only impose conditions if deemed absolutely necessary. It is not unusual to see licences with only a handful of conditions.

The reason for this is that they expect operators to promote the licensing objectives, not go through the motions of complying with conditions because they have to. Also, licences grandfathered in 2005 would, likely have few or no conditions on them. We have seen no evidence to suggest such premises have undermined the licensing objectives more than "conditioned licences."

We would challenge any authority to suggest that this approach leads to more issues with licence holders undermining the objectives. If anything this clarity of approach means that operators are freed up to adapt their businesses as the demands of the market change, freeing up officers from having to undertake lengthy

<p>inspections of licences and then having to send out enforcement letters relating to conditions that are breached in the observation without any real evidence that the breaches themselves undermine the objectives. This in turn frees up resources for enforcement against poorly behaving premises and dealing with unlicensed operators.</p>		
<p>6. Minor Variations</p> <p>We note your reference to minor variation but feel this can be expanded.</p> <p>The use of minor variations is a very useful tool and we feel that your policy should reflect this. Minor variations are there to ensure that cost and time is saved where appropriate for applicants seeking to make changes to their licence that would not undermine the objectives. We feel it would assist if you set out in your policy those applications that would fall ordinarily within the minor variation class. We would propose these are as follows:-</p> <ul style="list-style-type: none"> • Changes to layout that do not increase the customer area (beyond a de-minimis increase of, we would suggest, 10%). • Amendment and removal of conditions in agreement with responsible authorities. • Changes to opening times to allow for earlier opening for premises for non-licensable activities, i.e. to permit premises to open to serve coffee and/or breakfast. • Removal of conditions that are no longer relevant to the operation of the premises or are redundant following imposition of new law, such as the 	<p>It would not be appropriate to set out what would fall within the “minor variation” process in such a specific manner. Each application will be dealt with on its own merit. Applicants would normally consult with the licensing authority prior to submitting a minor variation request.</p> <p>There is greater detail in the S182 guidance in para’s 8.54-61.</p> <p>It is not the remit of this policy to replicate the content of the statutory guidance which is a publicly available document.</p>	<p>Noted. No action taken.</p>

<p>Regulatory Reform (Fire Safety) Order 2005.</p>		
<p>7. Prevention of Crime and Disorder</p> <p>The prevention of crime and disorder is one of the 4 licensing objectives and clearly a major pillar of licensing legislation. However, we have become increasingly concerned that licensed premises are sometimes being unfairly held to a higher standard when it comes to prevention of crime and disorder than other public premises. For instance, when Police present evidence of crime and disorder in relation to a licensed premises, they will often include references to any crime that is associated not just with the premises in terms of its operation as a licensed premises but generally. For instance, the Police will often include reference to all calls where those calls have referenced the premises as a local landmark which can include anything from criminal activity from people who have not been customers of the premises, offences in relation to taxis, or general disturbance and noise nuisance in a town centre where it cannot be said to be relevant to the premises.</p> <p>Premises licence holders will also often find reference to offences that are not relevant to the licensing objectives themselves. So, for instance, robberies at residential premises above a licensed premises are sometimes included. We feel it is important that the council recognise in their policy that these are matters that are not relevant to the prevention of crime and disorder licensing objective and that the licensing authority's expectation is that they will only be presented with evidence where it directly relates to the licensable</p>	<p>This is a police matter and not within the remit of the licensing authority to resolve.</p> <p>Any evidence given at licensing hearings will be scrutinised within the hearing process.</p>	<p>Noted. No action taken.</p>

<p>activities being provided within the premises themselves.</p>		
<p>8. Prevention of Public Nuisance</p> <p>The prevention of public nuisance licensing objective is to be widely interpreted, as set out in the Statutory Guidance. However, we often come across conditions imposed on licences, as well as the investigation of complaints that do not relate to public nuisance. For instance, conditions that refer to 'nuisance', rather than 'public nuisance', set a significantly higher barrier- one that was not intended by the Licensing Legislation. We also see this in terms of enforcement action where often enforcement officers will allege that a nuisance, often a private nuisance, has occurred and demand action under the terms of the premises licence. Clearly this is beyond that which was intended by Parliament and therefore we suggest that your policy reflects the need for public nuisance to be demonstrated and for conditions relating to nuisance to relate to public nuisance rather than any wider definition. In particular, we suggest that expressly stating that private nuisance is not a licensing objective would assist in all parties understanding what is and is not the remit of licensing legislation.</p>	<p>The licensing authority supports the good management of licensed premises in maintaining and raising standards across the licensed estate.</p> <p>This may involve liaising with other responsible authorities whose remit may be private nuisance.</p> <p>The matter of public nuisance is explained in detail in the S182 Guidance and in terms of the Licensing Act 2003 retains its broad common law meaning. The Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It would not therefore be appropriate to make a statement regarding private nuisance as requested.</p>	<p>Noted No Action taken</p>
<p>9. On and Off-Sales</p> <p>With respect to 7.21 of your draft policy we do not agree. We contend that such a sale is an on-sale. If one considers the nature of the offence of selling alcohol</p>	<p>Regrettably the respondee is wrong in law.</p> <p>S8.36 of the Statutory S182 guidance reflects the content of the policy.</p>	<p>Noted. No action taken.</p>

without the appropriate licence, it is clear that the intention is that the person making the sale is the one who would be charged with the offence, rather than, say, the purchaser. Therefore, in selling a drink in an open container for immediate consumption, it cannot be argued that the publican has made anything other than an on-sale. It is inconceivable that the law intended that should this person step outside the premises, or indeed take that drink away with him, that this would somehow transform that on-sale to an off-sale. The terms 'on' and 'off' sales originate from the Licensing Act 1964. Analysis of the legislation (by reference to off-sales) demonstrates that all off-sales had to be intended to be sold for consumption away from not only the licensed premises but any land associated with that premises or land immediately adjoining it for them to be considered an off sale. The intention was to ensure that in a situation where a seller makes an on-sale, that on-sale does not become an off-sale simply by means of it being consumed in the immediate environment of the premises, such as an unlicensed garden or on the pavement outside the pub.

As such, we feel that this needs to be clarified in the policy. We would propose a statement along the following lines:-

"On and off-sales are defined by reference to the intention of the seller at the time of sale. A sale in an open container for immediate consumption at the premises is an on-sale. This extends to where the person who has purchased the drink at the bar and then consumes it either in a pub garden or on the pavement immediately outside the premises or an area which has historically been used in the local vicinity.

There is no distinction in the Licensing Act 2003 relating to sales of alcohol in open or closed containers. For consumption to take place OFF the licensed premises, there must be the authorisation for off-sales. In the same manner consumption ON the licensed premises must have authorisation for on-sales. If the outside area of the premises is not covered by the premises licence for the sale of alcohol ON the premises, it cannot legally be used unless there is also authorisation to sell OFF the premises.

<p>An off-sale is a sale designed for consumption away from the premises and its immediate environs. This will usually be in a sealed container such as a bottle or can and the seller when selling that drink had no intention for the purchaser to remain at the premises to consume it".</p>		
<p>10. Planning and Building Control</p> <p>We feel it is a useful guide for applicants and responsible authorities to have a statement in your policy that reflects the fact that licensing and planning are entirely separate regimes albeit there is overlap in terms of the licensing objectives and planning's 'amenity' remit. In practical terms this means that neither planning nor licensing should need to be obtained first, so long as the applicant understands that both regimes need to be complied with.</p> <p>We would also urge you to clarify in your policy that where conditions are stipulated on a planning permission, such as restriction on hours or activities, these do not need to be repeated in the premises licence, unless there is good reason to do so. Often conditions relating to extract systems, closing times of external areas, etc. appear on both permissions and on occasion they do not even mirror the other. This leads to additional and unnecessary expense for licence holders should such conditions need to be amended.</p> <p>Paragraph 1.19 of the Guidance makes it clear that overlap between regimes should be avoided where possible.</p> <p>Agent of Change</p>	<p>Whilst planning and licensing are two separate regimes, it is incumbent upon the applicant or licensee to operate within the least permissive permission or be subject to potential enforcement action.</p> <p>4.2 of the policy states "The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action."</p> <p>As has been previously noted, conditions are included on a licence where agreed, volunteered or imposed and should only be added where necessary. The policy is clear on that.</p> <p>These are matters which should be agreed and resolved as a part of the application process.</p>	<p>Noted No action taken.</p>

<p>Whilst we recognise that the principle is currently being debated in terms of planning, it is equally as important in licensing. We recommend that the licensing policy expressly recognises that developers of new residential developments need to protect their buyers from potential sources of noise disturbance, not expect existing licensed premises to have to adapt their offer to accommodate the new development. In particular, small pubs often rely on live or recorded music, provision of social events and other community based promotions, such as beer festivals, in order to survive and thrive.</p> <p>We have, unfortunately, seen a rise in complaints and reviews directed at existing premises that have often been at the heart of the community for over a century, from residents moving into new properties nearby. Whilst it is incumbent upon licence holders to promote the licensing objectives, it is iniquitous and arguably a breach of their Article 1, Protocol 1 human right to peaceful enjoyment of property, which includes their premises licence, to have their livelihood threatened and sometimes taken away because of poorly designed and constructed residential property built next door.</p>	<p>As each licence is determined on its own merit. It would be unwise to fetter the licensing authority’s discretion in the policy.</p> <p>There is an agent of change bill currently being discussed in Parliament. Any reference to “Agent of Change” should be made when there is clarity of the legal status.</p>	
<p>11. List of responsible authorities</p> <p>We would ask that you please update the list of responsible authorities within your policy. It is helpful to licence holders to be able to find contact details, including phone numbers and email addresses, or a link to where such details can be found, as we often want to consult with officers prior to making applications. Without this information, and with council resources</p>	<p>The list of responsible authorities is set by statute and contained in the Licensing Act.</p> <p>The contact details of the responsible authorities are not held in the policy as they are subject to change. This negates the need to revisit the policy each time such a change takes place.</p>	<p>Noted. No action taken.</p>

<p>being directed toward generic call centres and help lines, it is becoming increasingly difficult to speak to the relevant officers.</p>		
<p>12. Tables and Chairs licences</p> <p>External areas, especially gardens and enclosed spaces laid out to tables and chairs, are often attractive in their own right, as well as promoting businesses. Where they are on council land, they can be useful sources of revenue for local authorities. We would ask that your policy refers to any tables and chairs policy in place, with links to where application forms can be found on the council website etc. Whilst not strictly related to the Licensing Act 2003, the council policy document is a useful guide to licence holders and the more information that can be provided about ancillary matters, the more likely it is that licence holders and applicants will use this resource.</p>	<p>Pavement licences are not within the remit of this licensing authority. This is a County Council matter and will apply to licensed and unlicensed premises.</p> <p>Such a matter is not within the remit of the policy.</p>	<p>Noted. No action taken</p>
<p>James Anderson, Poppleston Allen Solicitors.</p> <p>6.13 Public Health is not a licensing objective as the policy makes clear and so the council should attach less weight than to the four licensing objectives and be wary of bringing general information into individual applications when there are mandatory conditions in place.</p>	<p>Agreed</p>	<p>Noted. No action taken.</p>
<p>7.30 Whilst becoming increasingly unfashionable, "vertical drinking" establishments are not necessarily problematic if well run. They in the form of wet led pubs serve the community and are an important part of the</p>	<p>Noted.</p>	<p>Noted. No action taken.</p>

local economy and a diverse offer and cultural heritage		
Gill Oliver, Nottinghamshire County Council Senior Public Health and Commissioning Officer 4.3-4.7 Thank you for including these paragraphs on Public Health.	Noted	Noted. No action taken
7.34 Public Health supports Broxtowe's decision to adopt additional requirements for sexual entertainment venues.	Noted	Noted. No action taken
8.0 Public Health supports the measures to protect children.	Noted	Noted. No action taken