

Licensing Act 2003 Policy Review 2023 Consultation Responses

**Comments by report author in regard to those responses received are found in italic font and below relevant responses.*

Webform responses (17) follow:

1.Are you representing an organisation?

- Yes (5)
- No (12)

2.Is the Policy easy to understand?

- Yes (14)
- No (3)

3.If you answered 'no' please say why not.

- Not easy reading. Not easy understanding.
- Overly detailed and complex.
- It appeared convoluted in some places and overly wordy.

It is believed that the legislation concerned is complex and as a result the policy is required to be sufficiently detailed to cover a number of important areas which need clarity. It is not believed it is overly detailed. The level of detail provided is of a similar nature to other local authorities policies nationally. Prior to the subsequent recommendation to Strategy and Resources Committee further work will be undertaken to examine whether the language can be shortened or simplified without losing its meaning. It is understood new software is now available to assist with this aim.

4.Paragraph 5.1.6 (of the proposed policy revision) has been amended to reflect the Licensing Authority's learned experience of issues with licensed premises enforcement, and concerns with licensed premises being run behind the scenes by persons who may not otherwise be able to possess a licence themselves. The Licensing Authority is proposing to support representations made by the Police with regard to the crime prevention objective and would likely refuse an application made to the Authority. Do you have any comments or suggestions?

- Agree
- Fully endorse any additional control to prevent abuse of the law
- Not easily to prove.

This is certainly the position, and largely forms the rationale for this addition.

- None
- No
- I think the police should have the right to refuse any application which they deem to be unsuitable and to prevent further criminal activities taking place.

The legislation does not facilitate this.

- No
- All premises should be run accountably.

Agreed, and due to the omission in the legislation the new paragraph is suggested.

- It is good that this has been identified and that representations will be considered.
- Thank you for addressing this in the revised policy.

5.Paragraph 5.2 (of the proposed policy revision) a form to assist persons wishing to make a representation online [Make a representation \(northdevon.gov.uk\)](#). Do you have any comments or suggestions on the form?

- No
- No
- Make it easy to fill in and not a tick box exercise beloved of bureaucracy.

It is believed that it is easy to fill in and it is solely an option available, as those wishing to can still write to the licensing authority directly without utilising the form.

- I couldn't easily see how to save and amend it.

It is a standard Word form that can be saved and amended.

- It helps to concentrate the mind on the Licensing Objectives but does not leave space for context which may be helpful for a none standard application.

If an application is deemed to be non-standard by the individual seeking to make representation, there is an option to email the licensing authority directly. An extra box will also be inserted which cites 'any other comments'.

6.Paragraph 5.4 (of the proposed policy revision) lists new example conditions to be met when making Mobile, Remote, Internet and Other Delivery Sales. Do you have any comments or suggestions on the example conditions?

- Agree
- Agree that we need to move with the times
- No
- To involvedneeds to be firmly enfotced
- Yes
- How does the responsibility fall should a delivery driver fail to challenge 25 and/or delivers to a minor.
Stock return/processes of events upon refusal.

S151 of the Licensing Act cites a person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18—

*(a)alcohol sold on the premises, or
(b)alcohol supplied on the premises by or on behalf of a club to or to the order of a member of the club.*

Responsibility in regard failure to challenge 25 and any offence will be dependent upon on the conditions imposed on the licence.

- No
- Does this assume all companies will deliver and not get a third party to deliver? Third party companies may be less likely to check ages. The other conditions seem sensible to ensure awareness of restrictions and the product *This is not assumed. Example conditions are provided in the policy which cover third party delivery such as:*

Every third party courier delivery box shall be labelled with the words "Age Restricted Product".

There shall be mechanism either by an App or on the delivery package to show the delivery driver is aware it is an age restricted product to ensure ID checks are made upon delivery of alcohol.

- Residential or business "premises" rather than "address". Some businesses just have PO Boxes or the address could be that of a carpark with no secure buildings.

One of the example conditions cites: Alcohol shall only be delivered to a residential or business address and not to a public place or vehicle.

7.Paragraph 9.4 (of the proposed policy revision) now includes the Licensing Authority's stance in respect of the protection of children. For example where its discretion is engaged the Licensing Authority will consider refusal/revocation in the first instance where test purchases have found venues selling age restricted products to children. Do you have any comments or suggestions on this?

- Agree
- Fully support.
- Underage drinking has always been an issue and is a precursor to further anti-social behaviour
- No
- Difficult to understand what is meant
- Unclear in regard to vapes & bulk buying/re-selling.

Vapes are an age restricted product and will be included. It was not believed necessary to document different products for simplicity of reading. This section solely relates to children and bulk buying for re-sale is not included, this area moves into whether any offence committed is a relevant offence under the Licensing Act 2003.

- No
- I would have thought that evidence of supplying age restricted products to children would prevent a license being issued.

A licence may have already been granted hence the need to include revocation.

8.Paragraphs 11.2 and 11.3 (of the proposed policy revision) provide new information regarding psychoactive substances and the view taken by the Licensing Authority whereby persons are seen to be using or selling these substances. Do you have any comments or suggestions on the addition of psychoactive substances?

- Agree
- The law should be as strict as possible in these circumstances
- No
- There is no restriction in Braunton with the late night establishments all allowing the sale and distribution of psychoactive substances, its known and you can see it going on in the bars and behind the public houses, no police are ever patrolling in Braunton which has a high degree of late night revellers all enjoying the 1.00 am late closing at XXXX. It gets more prevalent all the time. The dealers are all resident in the village and whilst we residents are aware of who they are, clearly no-one in authority is doing anything about curbing the sales of illegal substances, even offering delivery to Croyde and holiday camps nearby.

It is believed this comment possibly relates to drugs rather than psychoactive substances, and this will be passed to Police colleagues.

- Strict enforcement necessary
- I think all licensed premises, licensee's need to be held accountable for any misuse of drugs that occur on their premises.
There also needs to be regular policing of premises where this is suspected.
- Yes
Great addition but places uncertainties on shops that sell balloons etc, while this is not the substance itself they are often key to their consumption.

Agreed but it is not believed that this can be included in the policy as those premises selling balloons may well not require any form of licence.

- No
- As above I would have thought knowing allowing illegal activity would lose your license.

This paragraph relates to the refusal of persons using these substances into licensed premises and not the licensees themselves.

9.Paragraph 18.0 (of the proposed policy revision) now lists the initiatives supported by the Licensing Authority to target violence against women and girls in the evening and night time economy. These include; Project Nighteye, Ask for Angela, Designated Driver Schemes and Anti-Drink Spiking Initiatives. Do you have any comments or suggestions on the addition of these initiatives?

- Agree
- Violence also occurs against men and this policy should not be gender specific.

The Government has specifically selected violence against women and girls as a strategy due to data which exists regarding crimes.

The following comments were gained from Devon and Cornwall Police:

Men are victimised through violence as well as women, and we are focused on providing high quality services to all victims and survivors of crime, irrespective of gender. Sadly, the victim/survivor statistics are hugely skewed towards women being the largest victim/survivor population in terms of violence, sexual violence, harassment and stalking offences: the offences we may see particularly in the evening and night-time economy and are thus relevant to the licensing regime.

Data may be obtained from Crime and justice - Office for National Statistics (ons.gov.uk) and HM Government has set Violence Against Women and Girls, (VAWG) as a new strategic policing requirement. This mandates every police force/service to tackle VAWG because of the severity of harm and sheer volume of offences disproportionately impacting women. The Beating Crime Plan cites:

“Violence against women and girls refers to acts of violence or abuse that we know disproportionately affect women and girls although it can affect anybody (including men and boys). Crimes and behaviour covered by this term include rape and other sexual offences, domestic abuse, stalking, ‘honour’-based abuse and murder, as well as many others. One in five women are victims of sexual assault (or attempted assault) in their lifetime (compared to 5% of men), over 27% of women had experienced domestic abuse after the age of 16 years old (compared to 14% of men), and 20% of women aged 16-74 experienced stalking after the age of 16 (compared to 10% of men). We also know that the amount of violence against women and girls crimes, including domestic abuse, stalking, rape, indecent exposure and unwanted touching has remained broadly the same since 2008-09. However, the volume of cases being referred by police, charged by the CPS and subsequently going to court has declined significantly since 2016.”

The Government Strategy Tackling violence against women and girls strategy (accessible version) - GOV.UK (www.gov.uk) is also addressed in the new Serious Violence Duty and new legislation and guidance on commissioning services.

For Police to achieve HM Government's VAWG requirement, prevention focused work in the ENTE with our Licensed Trade and Licensing colleagues supported by our elected representatives is crucial. It may be helpful to consider the College of Policing "Reducing violence in the night-time economy," webpage which outlines a variety of prevention tactics, some very similar to Ask for Angela and bystander training for those working in the ENTE. The College of Policing has a number of informative, publicly available pages which partners and elected representatives may find of use in their considerations, such as the Violence against women and girls toolkit Its introduction has a useful summary with statistics underlining the evidence-base/rationale for the focus on tackling violence against women and girls requiring police, partner and trade resources to be focused on preventing these serious harms which undermine the safety, wellbeing and prosperity of our communities

- The law should be as strict as possible in these circumstances
- More police presence at weekends and during holiday periods
- Active help must be seen to available and not just words
- Inclusion of smaller stores and bottle shops
Response times to these 999 calls.
- This policy should also include violence against men too.

The Government has specifically selected the prevention of violence against women and girls as a strategy due to data which exists regarding crimes. Other areas of the policy include crimes more broadly.

- Get the police to walk the beat
- It is good that awareness is being raised regarding the types of behaviour that constitute a possible risk of violence against women as many still do not see these behaviours as unacceptable. It all raises awareness and helps to change minds and habits in the long run.

Comments relevant to the police above, will be passed to Devon and Cornwall Police Licensing.

10.Paragraph 24.0 (of the proposed policy revision) the requirement for licence holders to keep their contact details up-to-date and notify the Licensing Authority of a change of address, change to an email address, telephone or mobile number. Do you agree with the requirement to give up-to-date contact details?

- Yes: (16)
- No: (0)

It is noted that despite the numerous letters sent by way of the consultation, very little response has been made further to the suggestion to contact the authority with a suitable email for newsletters and communications. As such despite a change to national legislation it is unlikely that the licensing authority will be fruitful in its aim with para 24.

12. Are there any other comments you would like to make in respect of the Policy? If you have none please enter none.

- Enforcement is the key to this.
- Reassuring to see that measures are being taken and now the changes need to be monitored and any transgressions acted upon swiftly
- Active enforcement of policy necessary not just words
- Will there be any training materials/info packs for these new changes before they become law. *Any amended policy will not become 'law'.*

Updates will be made available on the Council's website and through other means such as via Barnstaple PubWatch.

- With regard to open venues, e.g. music events and beer gardens, there is little regard to the impact on:
 - a) the environment with noise pollution, light pollution (and even sewage and litter). Birds, bats etc will be impacted.

Whilst nuisance is a licensing objective, the 'protection of the environment' is not, and this is something which has been lobbied for by this Licensing Authority (by way of a letter to the Home Office) in recent times.

b) human health, specifically noise related hearing damage. There is no limit on the decibel level that can be experienced in a venue, especially important for developing neurology. I have seen children wearing ear defenders in venues but this is not the norm, and babies are frequently in venues with no hearing protection, accompanied by adults enjoying loud music and often

under the influence of alcohol so their judgement about the health of their children is compromised. Anecdotally, people will often report that their ears are ringing after attending a venue. That indicates that the damage is done and by then it is irreparable.

Health is not a licensing objective under the Act.

To prevent hearing damage, I suggest mandatory noise level monitoring and all music to be less than 90dB at 3m away from speakers. Same applies to noise pollution effect on wildlife. For light pollution prevention, no lasers or upward facing lighting of any kind.

A new paragraph at 3.4.4 has been included to cover light pollution reflecting that found in the Section 182 guidance.

- I like pubs. It must be really hard to run one in today's climate. Please don't add to the load that publicans have by increasing bureaucracy just to please the government.
- The on sales off sales seems confusing and the government aren't making it any clearer.

There has been a change of position from the Government and it is noted that the Home Office issued an update on 14/08/23 in reference to the policy change relating to Regulatory Easements. In its update, the Home Office confirmed that "the Government has decided to extend the alcohol licensing regulatory easements relating to off-sales, set out in the Business and Planning Act 2020 (BPA), until 31 March 2025."

In 1.2 it seems to say plays, music etc are regulated entertainment then in 4.5.5 no license is needed under certain circumstances. I found this confusing

This is the legal position, and officers would agree that this area is confusing.

Nuisance is mentioned but not defined. One person's fun is another's nuisance.

Nuisance is defined in the Section 182 Guidance and in the policy at 3.4. A new paragraph at 3.4.1 is now also included to better define this within the policy document.

If conditions are imposed when issuing a license they should be followed up on. If non compliance is detected punitive punishments should follow. It's the only way to licensees to take their responsibility seriously.

Consideration must be given, by the applicant, to the areas and impact (5.3.3) but is any check done regarding the suitability of the venue for the use planned to take place either structurally or culturally?

- From Croyde Area Residents Association (CARA): It is understood that Georgeham Parish Council have made representations regarding recent licensed premises applications in the Parish so CARA will not repeat that.

Smaller rural community and more remote areas with sensitive landscapes would probably suit more tailored conditions specific to the particular location. Especially unusual ones such as where you have outside seating only and are next to open countryside where sound travels or very close to a rocky access to the beach.

With a rural village which is a tourist destination - the centre of the village has the concentration of pubs cafes and shops. The rest is mostly residential housing. Noise travels far in these sort of areas - especially Croyde which is bowl shaped in topography. The village is also a place where people live and work and go to school. The recent move towards licences for alcohol and music events regularly in the quieter residential areas of the Parish affects the quality of life and also the quality of holiday experience for many who visit to enjoy peace and tranquility and care should be taken in assessing the implications of such licenses longer term. TENs licenses may be an option or more specifically tailored conditions to meet the individual circumstances.

Thought also needs to be given to whether fields that are used for seasonal camping in an AONB should be licensed premises as that may ultimately lead to a change in character of an area when that change should be dictated by planning law and the granting of an alcohol license. TENs licenses may therefore be a more appropriate tool in these circumstances rather than granting a license effectively for ever and applying conditions.

I would also be helpful to acknowledge that a significant proportion of North Devon is in the AONB or National Park and there may well be tensions between protection of the natural environment and encouraging business and a clear high level strategic policy addressing this potential conflict would be helpful.

The definition of nuisance given in 3.4.1 is welcome and could include reference to aggressive and intimidatory behaviour.

- *The definition of nuisance updated to include an additional paragraph. Aggressive and intimidatory behaviour is one of those areas which may, depending on the situation, fall to the definition of crime and disorder.*
- *Members may want to consider the inclusion of an additional section, for areas perceived as sensitive, by way of their AONB designation or similar, albeit further advice provided to members below in respect of this (see Georgeham Parish Council representation).*

Comments received directly (6):

1. We have a very small bar turning over around £1500 per annum, so think you should base your fee on turnover and NOT rateable value.

Thank you for providing an opportunity to comment on this proposed policy document.

Fees are prescribed under the Act and they are based upon rateable value.

2. Dear Sir/Madam,

Wetheridge Parish Council considered your correspondence below when it met last week and resolved as detailed in the extract from its minutes:-

7.4. NDC- Consultation on Revised Licensing Act 2003 Statement of Licensing Policy.

RESOLVED. Cllr Northam proposed, Cllr Dorow seconded and all were in favour supporting the draft policy, specifically proposals detailed below being prioritised as mandatory not “suggested”:-

- Event Management
- Risk Assessment requirements
- Neighbour Disturbance
- Local Consultation

The Licensing Authority is unable to mandate any areas which are not similarly prescribed in the Licensing Act 2003.

3. Hi as a former premises licence holder could I please make the following comments.

Transfer of licence is an over complex procedure which includes several forms – this should be reduced to one more straight forward form – including instead of having to repeat certain areas such as addresses this should give the option ‘as in section (1)’ for example. All of which we have to do on line- which brings me to point 2:-

This is agreed, however the legislation prescribes the process and statutory application forms.

The council in general sends out paperwork- I received the exact same letter twice one because I am (was) licensee and one because of gaming machines (by post) when one email would suffice – saving the council and consequently constituents quite a lot of money.

Agreed hence the inclusion of paragraph 24 re contact details, however due to this not being a requirement for licence holders the position of repeated and duplicate paperwork may remain.

(My replacement as Licensee also received 2 copies by post thought this was probable due to transition.)

4. Hi

Have quickly read the draft policy, and noted that 18.1 does not read correctly, violence is spelt wrong, and should it be womens and girls in the evening an?

Regards

This has been updated.

5. Response from Georgeham Parish Council:

The Policy document refers to:

1. Standard licensed premises conditions and advice which GPC agrees is a helpful and sensible approach in the majority of cases. Where locations are environmentally sensitive such as being located in remoter rural areas or adjacent to countryside, beaches, cliffs in the Area of Outstanding Natural Beauty or close to SSSI's more tailor made conditions may be appropriate. Licensing premises to sell alcohol is also ultimately a land use and may in certain situations be in direct conflict with the AONB designation or the permitted planning use of the land. It would be clearer if this was acknowledged somewhere in the policy. This would help prevent any misunderstanding that if you have a premises licence you are then all set to go when there is planning permission that needs to be obtained. There are situations where granting a license for alcohol to be sold on premises could cause harm to the AONB. For example where the seating is outside in open countryside next to hedgerows. In this situation the licensing criteria would dictate bright lighted areas for safety but the AONB considerations would be for dark skies and protection of natural habitats.

A new paragraph at 3.4.4 has been included to cover light pollution reflecting that found in the Section 182 guidance.

There are clearly some areas of North Devon which are more environmentally sensitive than others. This could be acknowledged in the Policy document with reference to careful thought being given to more tailor made licensing conditions that also respect NDDC's statutory duty to protect and enhance the AONB ;

2. Risk rating premises – this again is a sensible approach provided the full gamut of risks are appreciated.
High risk factors in relation to licenses in smaller rural or coastal communities could include
 - a) Remoteness of location from emergency services – this makes such rural/coastal areas higher risk to public safety if alcohol and other substances are not robustly dealt with by establishments on site as emergency services are not readily available;
 - b) Barriers to emergency services eg blocked single track roads at busy times – again higher risk to public safety as emergency services cannot get through. Last week it took a concrete lorry over 1.5 hours to get to Putsborough because of cars parked on the highway blocking the access to and from Putsborough beach. What if there had been a fire in a licensed premises or a medical emergency in that sort of location;
 - c) Close proximity to natural hazards eg cliffs, sea, unlit uneven surfaces (NB AONB so need to minimise light pollution) – again higher risk to public safety

The Licensing Team will be aware that there have been a number of Licensing applications in Georgeham Parish over the past couple of years – some of which have been fairly unique in what they proposed. These were all located in the North Devon Coast Area of Outstanding Natural Beauty – including some being in highly prominent/sensitive locations:

1. Application for licensed premises where all the seating is open air and alcohol is served from a separate bar area. The location is away from the village centre, next to open countryside on the one side and residential area on the other. Also next to a busy road and the southern access route to the SW Coast Path, Croyde Bay Beach and the cliffs. Specific conditions tailored to address this were agreed ;
2. Application for a premises license for a horse box parked in a car park (whose permitted use is a car park only) with no seating or sanitation or waste disposal provision for customers. The reliance for seating, sanitary and waste provision appeared to be being placed on public and community funded seating areas, sanitation and waste disposal provisions, some way away. The proposal encouraged customers to consume alcohol while walking around. There was genuine concern that applications of this type indirectly encouraged sale of alcohol that is then quickly taken out of eyesight of the supplier who can then no longer monitor who actually drinks the alcohol. This application was withdrawn.
3. Application for a large seasonal camping field in a sensitive open countryside area to be a licensed premises. Tailor made conditions attached to the licence.

Conditions that have been negotiated recently have variously included

1. No off sales from the premises
2. Restrictions on hours of opening
3. Only serving alcohol with food
4. Enhanced first aid training for staff at the licensed premises
5. For a large licensed area – qualified security staff
6. Secure storage of alcohol and confiscated drugs
7. Conditions regarding litter and clearing up
8. No high percentage alcohol beer cider or lager
9. No plastic drinking vessels (Croyde Beach is meant to be plastic free and the owners work closely with Plastic Free North Devon) there is also impact on marine/coast wildlife from plastic and other litter
10. Controls on lighting of the premises
11. Reduced area for selling alcohol on the premises and specification of what entrances/exits are to be used by customers/monitoring of those customer exits/entrances to prevent removal of alcohol from the premises.

It is appreciated that this is a summary of what has happened in a small rural Parish but it may have some resonance for other areas with similar land characteristics and designations.

If an alcohol license is granted for a defined premises, that license stays in perpetuity unless the terms of the license are breached and a review is initiated that results in the license being removed. It may be considered that the use of TENs licences is a preferable alternative to the granting of permanent premises licence to cover the desired activity.

Finally the explanation of the interplay between having licensed premises and the right to play music is a welcome addition to the Policy as is the right of the LA to impose conditions regarding music. The imposition of conditions regarding playing of music when premises are licensed should be given special care and attention in quieter rural settings. “

The policy outlines that between certain hours the playing of live/recorded music is deregulated, and that the authority is unable to impose conditions in these instances unless an application for a review is received.

Members may want to consider the inclusion of an additional section, for areas perceived as sensitive, by way of their AONB designation or similar, however members should exert caution in adding any further complexity to the application process as proposed. It is believed that the application process does work as intended and that this is demonstrated in the six most recent applications dealt with in the Croyde area, resulting in mediated amendments to applications and applications which have been withdrawn namely:

Campsite application -withdrawn when representations were shared with the applicant who now facilitates alcohol sales by means of a TEN.

Application - withdrawn when representations were shared with the applicant and no further application received.

Tea room application- amended after mediation achieved prior to hearing when representations were shared with the applicant's solicitor.

Carpark application amended after mediation achieved prior to hearing when representations were shared with the applicant's solicitor.

Moveable premises proposed to be stationed in area - application withdrawn when representations were shared with the applicant and no further application received.

Application - agreed after mediation achieved when representations were shared with the applicant.

6. Response from Manager, North Devon Coast Areas of Outstanding Natural Beauty

We would like to propose inclusion of the following aim in relation to the nationally designated Areas of Outstanding Natural Beauty.

Aim: Protection of the Areas of Outstanding Natural Beauty

- Have regard to the purpose of conserving and enhancing the natural beauty of the AONB. Natural beauty includes the landscape, geology, wildlife and cultural heritage of the areas.
- Respect the special qualities of the AONB landscape including a strong sense of tranquillity, remoteness and the dark night skies that contribute to its natural beauty
- Economic, social and recreational needs can be met within the designated AONB insofar as they are consistent with the conservation of natural beauty

Our justification for this is as follows:

- The Countryside and Rights of Way Act 2000 legislation
- Section 85 of the Countryside and Rights of Way (CRoW) Act 2000 places a duty on all public bodies 'to have regard to the purpose of conserving and enhancing the natural beauty' of the AONB "in exercising or performing any functions in relation to or so as to affect land" and that includes the licensing function.
- Section 92 of the CRoW Act clarifies that the conservation of natural beauty includes the conservation of 'flora, fauna and geological and physiographical features'.

By including the above aim, some account can be taken of the environmental impact of proposed activities in protected areas alongside the four existing key aims of the policy.

We hope you can take this into account as part of your consultation process.

We look forward to hearing from you and happy to respond to any further queries.

Comments echo those made above, in that matters pertaining to the environment are not part of the Licensing Objectives stipulated under the Licensing Act 2003. There is concern that to go any further from the Licensing Objectives would stray into an unjustified approach which over steps the Licensing realm and into Planning and Environmental Health considerations.