

## PLYMOUTH CITY COUNCIL

<b>Subject:</b>	Licensing Act 2003 – Statement of Licensing Policy
<b>Committee:</b>	Cabinet
<b>Date:</b>	13 November 2018
<b>Cabinet Member:</b>	Councillor Sally Haydon
<b>CMT Member:</b>	Ruth Harrell, Director of Public Health
<b>Author:</b>	Rachael Hind, Licensing Service Manager
<b>Contact details</b>	Tel: 01752 308794 email: Rachael.hind@plymouth.gov.uk
<b>Ref:</b>	
<b>Key Decision:</b>	No
<b>Part:</b>	I

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### **Purpose of the report:**

The Licensing Act 2003 places a duty on the Licensing Authority, every five years, to determine and publish a statement of licensing policy.

The current statement of licensing policy was published and became operative from January 2014. Before determining its Policy, the Licensing Authority must consult in accordance with s.182 guidance issued under the Licensing Act 2003.

Cumulative Impact Assessments (CIA) were introduced formally in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. After publishing a CIA the licensing authority must, within three years, consider whether it remains of the opinion set out in the assessment as detailed in the section 182 guidance.

The draft policy and current cumulative impact areas were consulted on for four weeks between Tuesday 11 September 2018 and Wednesday 10 October 2018. This report contains details of the consultation responses and a draft of the policy and cumulative impact areas proposed to be adopted.

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### **Corporate Plan**

The relationship to the Corporate Plan (and Plymouth Plan) –

**Growth** – The draft policy aims to assist in the delivery of a safer, more vibrant Plymouth. This in turn should attract more visitors to the City and also support an increase in the numbers of citizens of Plymouth who will utilise the social, cultural and sporting offers available. Opportunities for increased levels of employment should follow. A safe and vibrant leisure economy will allow Plymouth to be positively marketed attractive destination both nationally and internationally.

**Caring** – The policy will allow for effective control of alcohol supply, which will assist in reducing alcohol harm and thereby reduce inequality. Whilst alcohol misuse affects individuals from all sections of society, those from the most disadvantaged communities experience the highest burden of harm.

**Plymouth Plan** – the Policy will assist in the delivery of Policy HEA5 – Delivering safe and strong communities and good quality neighbourhoods.

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**Implications for Medium Term Financial Plan and Resource Implications:  
Including finance, human, IT and land**

None

Government has set fees at a level that they believe will achieve full recovery of the administrative, inspection and enforcement costs falling on the Licensing Authority associated with their licensing functions under the Licensing Act 2003. The review of the Licensing Policy is a core part of the licensing function and there are no future financial implications.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The Licensing Policy has a key role in reducing alcohol related crime and disorder, the fear of crime and the prevention of nuisance or anti-social behaviour. Risk taking behaviour, such as irresponsible alcohol usage can affect individual, their families, local communities and society as a whole. This policy aims to play its part in minimising the negative aspects of alcohol supply and use.

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**Equality and Diversity**

Has an Equality Impact Assessment been undertaken? Yes

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**Recommendations and Reasons for recommended action:**

It is recommended that Members consider this report and to:

1. Recommend to the City Council that the draft Licensing Statement of Policy contained in Appendix A is adopted with effect from 31 March 2019.
2. Consider the evidence set out in Appendix B of this report and based on the concerns about crime and disorder:

Recommend to the City Council to retain the Special Policy on Cumulative Impact following Cumulative Impact Assessments for each of the following areas:

- Union Street (including Derry's Cross)
- Barbican
- North Hill
- Mutley Plain
- Stoke

3. Authorise officers to undertake a further Cumulative Impact Assessment consultation regarding the extension to the North Hill cumulative impact areas as recommended by Devon and Cornwall Police.

**Reason**

The policy has been updated to reflect the current needs of the City. For example further information has been provided on Safeguarding to help licence holders to report matters of concern.

A section has been included on flyposting to assist us in dealing with the widespread problem of illegal and nuisance fly posting and littering from promotional material used to promote bands and events in the City.

Information has been included to support the Council’s ‘Plymouth Plan for Plastics’. Where the use of plastics are required to prevent crime and disorder or public nuisance, then businesses are encouraged to use reusable plastics where possible and ensure any plastics used are recycled.

The Council are keen to promote healthier food provision throughout the city and we expect all late night refreshment venues to promote the Public Health England recommendations.

Further guidance has been included with regards to expectations of businesses to ensure any noise associated with their premises is completed contained after 11pm so as not to cause a nuisance to local residents.

There is sufficient evident to support the continuation of the special policy on cumulative impact following a cumulative impact assessment for the 5 established areas. Although Stoke Village has shown a reduction in violent crime the area has a relatively high density of licensed premises in a residential area. This leads to the potential for public nuisance and so any further expansion of licensed premises would be usefully managed through the cumulative impact policy.

**Alternative options considered and rejected:**

No change to the Licensing Policy or the removal of the Cumulative Impact Policy. The evidence submitted as part of the consultation has established a significant proportion of violent crime occurs within the night time economy. The cumulative impact areas still experience high levels of crime associated with the supply or use of alcohol and local communities are affected by late night anti-social behaviour. On balance, the operation of the Licensing Statement of Policy appears to be proportionate and evidence exists for the retention of the Cumulative Impact Policy due to either crime and disorder or public nuisance.

In order to comply with statutory requirements the Policy must be considered and adopted by City Council at the meeting set for 28 January 2019. There is a statutory requirement to publish the revised policy, at least four weeks before the date on which it comes into effect. Failure to meet these timescales would result in the Council not being able to process any applications after the 31 March 2019 until a new policy statement had been formally approved.

**Published work / information:**

[S.182 Statutory Guidance, issued by the Home Office Regulators Code \(Better Regulation Delivery Office\)](#)  
[Plymouth City Council – Licensing Act Statement of Policy 2014 - 2019](#)

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Responses to consultation	X									
Equality Impact Assessment	X									

**Sign off:**

Fin	djn18.19.117	Leg	31477/ag/24.10.18	Mon Off	LT/31477	HR		Assets		IT		Strat Proc	
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Originating SMT Member
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Has the Cabinet Member(s) agreed the contents of the report? Yes
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## **1.0 BACKGROUND**

- 1.1 The Licensing Act 2003 places a duty on the Licensing Authority in respect of each five year period to determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy. This policy establishes the licensing controls placed on the sale of alcohol, provision of entertainment and the operation of premises for late night refreshment.
- 1.2 Alcohol is an important component of Plymouth's economy, particularly within the city's Evening and Night Time Economy (ENTE).
- 1.3 The use of alcohol, however, can have a negative impact on individuals, families, local communities and Plymouth as a whole. Whilst it is not possible to fully quantify the impact of alcohol misuse across the city a number of indicators provide evidence of harm, which are shown on the [alcohol harm mapping tool](#). Every year a significant number of children experience poor care and neglect due to parental alcohol misuse. In organisations across the city countless working days are lost due to alcohol affecting productivity and economic progress.
- 1.4 There is a strong association between deprivation and an increased burden of harm linked to alcohol misuse. People living in the most deprived areas of the city are nearly twice as likely to be admitted to hospital because of alcohol as those living in the least deprived areas.
- 1.5 The report provides details of the five year review of the City Councils Licensing Act Statement of Licensing Policy and contains a draft policy to commence from 31 March 2019. The Statement of Licensing Policy is specified within the Council's Policy Framework, therefore, Full Council is required to consider and formally adopt the revised policy prior to the expiry of the current policy on the 30 March 2019.

## **2.0 Consultation Process**

- 2.1 The Licensing Act 2003 states that before determining its policy or making a Cumulative Impact Assessment a Licensing Authority must consult –
  - The chief officer of police for the Licensing Authority's area
  - The Fire Authority for that area
  - Local Health Board
  - Office of the Director of Public Health
  - Such persons as the licensing authority considers to be representative of holders of premises licences issued by the authority
  - Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by the authority
  - Such persons as the licensing authority considers to be representative of holders of personal licences issued by the authority
  - Such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 2.2 A four week public consultation exercise was undertaken between 11 September 2018 and 10 October 2018. Letters were sent to all premises holding either a 'premises licence' or club premises certificate' and personal licence holders advising them of the consultation. A similar letter was sent to the Resident / Community groups and faith groups for which contact details were available. Details of the consultation were posted on our webpages.

A total of approximately 4000 people or groups were contacted directly by letter. In addition the responsible authorities were consulted (Police, Child Protection, Fire and Rescue Service, Trading Standards, Environmental Health, Public Health, Planning Authority, HSE, Maritime & Coastguard Agency and the Home Office).

- 2.3 All ward Councillors were sent copies of the consultation documentation.
- 2.4 The Statement of Licensing Policy is specified within the Council's Policy Framework. In accordance with the Constitution the Cabinet Member for Safer and Stronger Communities referred the draft Policy to the Performance, Finance, and Customer Focus Overview and Scrutiny Committee for consultation. The Committee did not wish to review the policy at this stage.
- 2.5 A total of 8 responses were received as a result of the consultation process. The Police submission and crime data is contained in Appendix B. The written responses are contained in the table below:

No	Date received	Comments received	Response
1	20.9.18	I work at Christ the King Church, Armada Way, and I want to tell you that this year in particular has been the worst ever. The alcoholics sit by the 'anchor' opposite the church. They continually use our toilet – leave it in a terrible mess – steal toilet rolls – even the toilet roll holder which I provided myself! I think that area and also the surrounding area should be an alcohol free zone. One Saturday morning I had to call an ambulance – the person was so drunk she fell up the steps leading into the church.	Thank you for your letter. I have passed this information to the Licensing Police so that they can review this area and take appropriate action.
2	24.9.18	I would just like to let you know that I have looked at the draft statement and the changes to the current policy. I agree with the changes proposed and am glad that the cumulative effect still includes those main areas. I would like to add that maybe there should be more enforcement on some of the shops that sell high ABV drinks fairly cheaply to all the people that drink on the streets that they are aware of but still sell to.	Thank you for your email and for your support of the proposed policy. The Licensing Police and our Licensing Team carry out enforcement checks regularly to ensure premises are complying with their licensing conditions. Please can you notify us with specific details of the premises that you are aware of that are selling high strength alcohol to street drinkers so that we can ensure these premises are investigated.
3	27.9.18	Environmental Health Response; With the deregulation of the requirement for a licence for regulated entertainment in licensed premises in 2012 the Government accepts that licensed premises may have an increased level of noise between 8am and 11pm. With this in mind the conditions requested by the Environmental Health Authority on new premises licences have become more focused on quiet hours of between 23:00 and 08:00. The Environmental Health	Thank you for your response. I have added an additional paragraph on page 12 after the paragraph ' Applications for licensed premises located in residential areas wishing to open beyond 23.00 will need to ensure that a high standard of control is included within their operating schedule so that, for example, public nuisance will not result from later operation. To include the following : Between the hours of 23:00 and 08:00 hours any new premises licence is expected to include a condition of total sound containment

		<p>Authority would like to see these Quiet Hours integrated into the general licensing policy as they have been shown to be of benefit to Plymouth residents that live close to licensed premises. As such it would be beneficial under the licensing objective for the Prevention of Public Nuisance that the policy states that between the hours of 23:00 and 08:00 any new premises licence would be expected to include a condition of total sound containment within the licensed premises. Any already licensed premises that causes disturbance between 23:00 and 08:00 would be expected to take measures to reduce noise levels.</p>	<p>within the licensed premises. Any existing licensed premises that cause disturbance between 23:00 and 08:00 hours are expected to take measures to reduce noise levels so as not to cause a nuisance to local residents.</p>												
4	5.10.18	<p>Thank you for advising Crownhill Methodist Church about the review of the Statement of Licensing Policy.</p> <p>I have read the draft and would like to compliment whoever is responsible for a clear and comprehensive document.</p> <p>One small point - on page 4, the review date is shown as 20149. I guess this will read 2019 in the final version?</p>	<p>Thank you for your kind comments. The typing error has been corrected.</p>												
5.	6.10.18	<p>Public Health Response:</p> <p>With regards to the proposed review of the licensing policy it would be extremely useful if there could be some provisions relating to healthier food provision. This would fit with the other strategies in the city – specifically the Plymouth Plan which sets out the cities ambitions to be a city where the healthy choice is the easy choice.</p> <p>We would request the inclusion of a licensing condition where premises are required to ensure at least 10% of their menu items meet the Public Health England recommendations as follows:</p> <table border="0"> <tr> <td>Main meal</td> <td>less than 600 calories</td> </tr> <tr> <td>Snack</td> <td>less than 200 calories</td> </tr> <tr> <td>Breakfast</td> <td>less than 400 calories</td> </tr> </table> <p>Guidance and support is available to help businesses achieve these goals from the following guidance documents. Further support is available directly from the Council, please email the public health team at <a href="mailto:ODPH@Plymouth.gov.uk">ODPH@Plymouth.gov.uk</a>.</p> <p><a href="http://www.nhs.uk/oneyou/be-healthier/eat-better/https://www.nhs.uk/oneyou/be-">www.nhs.uk/oneyou/be-healthier/eat-better/https://www.nhs.uk/oneyou/be-</a></p>	Main meal	less than 600 calories	Snack	less than 200 calories	Breakfast	less than 400 calories	<p>Unfortunately a condition could not be introduced, however we have included the following paragraph within the policy on page 13 to demonstrate our expectations of businesses to provide healthier food provision throughout the City:</p> <p><b>Healthier Food Provision</b></p> <p>The Council are keen to promote healthier food provision throughout the city. This is embedded within the Plymouth Plan which sets out the cities ambitions to be a city where the healthy choice is the easy choice.</p> <p>We expect all late night refreshment venues, as a minimum, to ensure at least 10% of their menu items meet the Public Health England recommendations as follows:</p> <table border="0"> <tr> <td>Main meal</td> <td>less than 600 calories</td> </tr> <tr> <td>Snack</td> <td>less than 200 calories</td> </tr> <tr> <td>Breakfast</td> <td>less than 400 calories</td> </tr> </table> <p>Guidance and support is available to help businesses achieve these goals from the following guidance documents. Further support is available directly from the Council, please email the public health team at</p>	Main meal	less than 600 calories	Snack	less than 200 calories	Breakfast	less than 400 calories
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		<p><a href="http://healthier/eat-better/">healthier/eat-better/</a></p> <p><a href="http://www.london.gov.uk/sites/default/files/takeawaystoolkit.pdf">www.london.gov.uk/sites/default/files/takeawaystoolkit.pdf</a></p> <p><a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604912/Encouraging_healthier_out_of_home_food_provision_toolkit_for_local_councils.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604912/Encouraging healthier out of home food provision toolkit for local councils.pdf</a></p>	<p>ODPH@Plymouth.gov.uk.</p> <p><a href="http://www.nhs.uk/oneyou/be-healthier/eat-better/">www.nhs.uk/oneyou/be-healthier/eat-better/</a><a href="https://www.nhs.uk/oneyou/be-healthier/eat-better/">https://www.nhs.uk/oneyou/be-healthier/eat-better/</a></p> <p><a href="http://www.london.gov.uk/sites/default/files/takeawaystoolkit.pdf">www.london.gov.uk/sites/default/files/takeawaystoolkit.pdf</a></p> <p><a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604912/Encouraging_healthier_out_of_home_food_provision_toolkit_for_local_councils.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604912/Encouraging healthier out of home food provision toolkit for local councils.pdf</a></p>
6.	9.10.18	<p>Response received from Safeguarding Team, Plymouth City Council</p> <p>I have reviewed the re-drafted licensing policy and have the following comments</p> <ul style="list-style-type: none"> <li>• Child Sexual Exploitation now changed to Child Exploitation – the Safeguarding Board are now using terminology of child exploitation to cover all aspects of exploitation (including sexual exploitation and gang related crime etc.) There is one paragraph in the document though where it is appropriate to maintain the definition of sexual exploitation.</li> <li>• Page 7 – Please use the term vulnerable adults or vulnerable persons instead of adults with care and support needs.</li> <li>• Page 9 - Where it mentions zero tolerance of drugs - consider including the regular audits/ checking of toilets, staff training and logs of drug finds/working in partnership with Police.</li> <li>• Page 9 – Public Safety – consider adding an additional bullet point for something like participating in safety incentives such as ‘Ask Angela’.</li> <li>• Page 10 - Protection of Children from Harm –consider adding additional bullet to include outdoor play areas – signage requiring adult supervision and</li> </ul>	<p>Thank you for your response.</p> <p>The Policy has been updated following your comments to ensure the correct wording is being used.</p> <p>The strategic safeguarding lead for Plymouth City Council has confirmed that the term ‘adults with support and care needs’ is the correct term to use.</p> <p>Additional information has been included with regards to the zero drug policy on page 12.</p> <p>An additional bullet point has been included to state: Participating in safety incentives such as ‘Ask Angela Campaign’.</p> <p>An additional bullet point has been included to state: All external areas to be routinely monitored to prevent children from being at risk from harm.</p>



		<p>appropriate safety checks being carried out on any play equipment.</p> <ul style="list-style-type: none"> <li>I have noticed that on Sheffield's LSCB website they consider Children's outside play areas at licensed establishments within their licensing conditions, I guess that regular maintenance and safety checks on roundabouts / swings etc. is a good idea if it is permitted to be included. Also give thought to now that lots of pubs serve food, then safety and maintenance of any equipment used by children such as highchairs could also be considered.</li> <li>Page 14: I have asked for consideration to remove Existing DPS as well as Proposed DPS –I thought that by including the wording "existing DPS" it would assist in easier removal of any inappropriate persons from positions of trust.</li> <li>I have worded several areas with Vulnerable persons as opposed to adults with support and care needs as I think that vulnerable persons or vulnerable adults is the terminology used by Adults Social Care you might want to check this out with them.</li> </ul>	<p>Unfortunately, the Policy cannot include anything regarding maintenance/health and safety aspects of play equipment or high chairs as this is covered under health and safety legislation.</p> <p>This is already covered in the bullet point above on page 15 which refers to the existing DPS at a problem premises.</p> <p>The strategic safeguarding lead for Plymouth City Council has confirmed that the term 'adults with support and care needs' is the correct term to use.</p>
7.	10.10.18	Report received from Devon and Cornwall Police – please see Appendix B.	Please refer to section 4 and 5 of the Cabinet report
8	10.10.18	Response received from a Large Pub Company	This response can be found in Appendix C.

### 3.0 Changes incorporated into the draft Licensing Policy

3.1 The main changes that have been introduced within the draft Policy are:

- Safeguarding** – further information has been provided for licence holders to help them report, to the relevant authorities, matters of concern that could relate to the safety of children, young people and adults with care and support needs, particularly if it relates to child sexual exploitation, abuse, modern slavery and human trafficking.
- Flyposting and promotional material throughout the city** – Plymouth faces a widespread problem of illegal and nuisance fly posting and littering from promotional material used to promote bands and events in the City. A section has been included in the draft policy to ensure Premises Licence Holders act responsibly and are

encouraged to have appropriate measures in place to prevent any illegal and nuisance fly posting.

- **Plastics** – information has been included to support the Council’s ‘Plymouth Plan for Plastics’. Where the use of plastics are required to prevent crime and disorder or public nuisance, then businesses are encouraged to use reusable plastics where possible and ensure any plastics used are recycled.
- **Alcohol Harm Mapping Tool** - reference to this tool has been included. This tool has been produced by Plymouth Public Health Team and can be used by any business or responsible authority to assist them in understanding the issues in their local area and to help protect and improve the local population’s health and wellbeing.
- **Cumulative impact Assessment** – Please see further detail regarding this in section 4 below. It is proposed that the Cumulative Impact Policy continues to cover the five areas within Stoke Village, Mutley Plain, North Hill, The Barbican, Derry’s Cross and Union Street.

3.2 Following the responses received from the consultation, the following additional changes have been included in the draft policy:

### **Healthier Food Provision**

A response from the Public Health Team requested that a section was included to promote healthier food provision throughout the city. The following section has been included on page 13 of the draft policy to encourage licensed food businesses to be responsible:

The Council are keen to promote healthier food provision throughout the city. This is embedded within the Plymouth Plan which sets out the cities ambitions to be a city where the healthy choice is the easy choice.

We expect all late night refreshment venues, as a minimum, to ensure at least 10% of their menu items meet the Public Health England recommendations as follows:

Main meal	less than 600 calories
Snack	less than 200 calories
Breakfast	less than 400 calories

Guidance and support is available to help businesses achieve these goals from the following guidance documents. Further support is available directly from the Council, please call the public health team.

[www.nhs.uk/oneyou/be-healthier/eat-better/](http://www.nhs.uk/oneyou/be-healthier/eat-better/)<https://www.nhs.uk/oneyou/be-healthier/eat-better/>

[www.london.gov.uk/sites/default/files/takeawaystoolkit.pdf](http://www.london.gov.uk/sites/default/files/takeawaystoolkit.pdf)<https://www.london.gov.uk/sites/default/files/takeawaystoolkit.pdf>

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## **Public nuisance**

Following the response from Environmental Health, the paragraph below has been inserted on page 13:

Between the hours of 23:00 and 08:00 hours any new premises licence is expected to include a condition of total sound containment within the licensed premises. Any existing licensed premises that cause disturbance between 23:00 and 08:00 hours are expected to take measures to reduce noise levels so as not to cause a nuisance to local residents.

### **3.3 Other amendments**

A number of minor amendments have been made following the responses received. These are referenced within the table above or in Appendix C.

### **4.0 Cumulative Impact Assessment**

4.1 The current policy includes a special policy in relation to Cumulative Impact. Guidance under s.182 of the Licensing Act 2003, describes this as the potential impact, on the promotion of the licensing objectives, of a number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its licensing policy statement.

4.2 There must be an evidential basis for the decision to adopt a Cumulative Impact Assessment (CIA) within the statement of licensing policy regarding cumulative impact areas.

4.3 Section 5A of the 2003 Act sets out what a licensing authority needs to do in order to publish a Cumulative Impact Assessment (CIA) and review it.

4.3 The following steps must be followed in considering whether to publish a CIA:

- 1 Identify concern about crime and disorder, public safety, public nuisance or protection of children from harm in a particular location
- 2 Consider whether there is good evidence that crime and disorder or nuisance are happening or whether there are activities which pose a threat to public safety or the protection of children from harm.
- 3 If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
- 4 Identify the boundaries of the area where problems are occurring
- 5 Consult with those specified in section 5(3) of the Licensing Act 2003.
- 6 Subject to the outcome of the consultation, include and publish details of the Cumulative Impact Assessment (CIA) including the evidence in support of the assessment
- 7 Summarise the licensing authority's opinion in light of the evidence of cumulative impact in the Licensing Policy Statement and explain with the policy statement how the authority has had regard to any CIA's it has published.

4.4

The effect of adopting a CIA is that the Council as licensing authority is stating that it considers that the number of relevant authorisations in respect of premises in one or more of the areas identified in the assessment is such that it is likely that it would be inconsistent

with the authority's duty to promote the licensing objectives to grant any further relevant authorisations in respect of premises in the CIA's

- 4.5 The Police have responded to the draft policy and have also included a report which is an evidence based problem profile, identifying those areas affected by violent crime associated with the evening and night-time economy and seeking the continuation of the Cumulative Impact Policy within the Statement of Licensing Policy.

The existing areas have been requested to be retained, based on their existing boundaries:

- Union Street
- Mutley Plain
- North Hill
- Barbican
- Stoke village

- 4.6 Devon and Cornwall Police have strongly recommended in their report in Appendix B that, following a period of consultation, the North Hill Cumulative Impact Area is extended to cover the area of Gibbon Street and Regent Street up to the far end of Hampton Street. Further police work around the intelligence which has been submitted can be carried out in order to identify if there is indeed a link between the intelligence and crime figures and vulnerability. The Police have suggested that this work takes place over the next 3 months until the end of January 2019 prior to the consultation.

## **5.0 Results of Cumulative Impact Assessment Consultation**

### **5.1 Crime and disorder**

Appendix B contains the detailed statistical evidence supplied by the Devon & Cornwall Constabulary. Appendix 2 of the Police Report provides the crime associated within the ENTE in each Cumulative Impact Area. The Evening and Night Time Economy areas still account for the majority of violent crimes across the City.

Devon and Cornwall Police have advised in their report that they changed their crime recording standards from April 2016 on recommendations from HMIC. This has meant that the number of recorded crimes increased across the force by between 17 – 20%. This means that 8 months of 2016 and all of 2017 and 2018 are recorded under these new crime recording standards and will need to have this difference considered.

- 5.2 The ENTE contributes to a significant proportion of the incidents and the majority of incidents take place on a Friday and Saturday within the ENTE hours, which are 23:00 to 08:00 hours. Partnership working has already seen to have delivered good results and further work is ongoing. The continuation of a Cumulative Impact Policy can be seen as one possible means of controlling an increase in crime related to new licences which may be granted in areas with high concentrations of existing licences.

### **5.3 Public Nuisance**

In general the majority of public nuisance issues relate to noise from entertainment held on the premises or noise and anti-social behaviour in the vicinity of premises or transit routes between the evening and night time economy areas and places of residence.

- 5.4 Noise directly attributable to individual premises can be adequately controlled using existing legislation from within the Licensing Act or the Environmental Protection Act.

Nuisance not attributable to individual premises is difficult to control using powers available to the Local Authority.

- 5.5 All of the cumulative impact areas are in very close proximity to residential areas giving rise to residents' concerns regarding public nuisance and anti-social behaviour. The majority of these incidents go unreported due to their transient nature and the inability of the agencies to have an impact on this problem.

## **6.0 Operation of the Cumulative Impact Policy**

- 6.1 Since 1 April 2014, there have been a total of 32 applications for new premises or major variations in CIP areas, with only one being refused.

Type	Applied	Refused
New Application	18	0
Variation	14	1

The majority of applications received within the Cumulative Impact Areas have been for the grant of new café/restaurants which do not have the same impact as vertical drinking establishments. A number of off licences have been approved but have put additional conditions in their operating schedule for example to prevent the sale of single cans and not selling high strength cider/beer above 6.5 ABV.

No objective evidence has been found to identify any impact on the evening and night time economy.

- 6.2 A Cumulative Impact Policy requires applicants to deliver an increased standard of application and operating schedule in order to establish that the Policy should not be applied on that case. It does not prohibit future approval of new applications or variations to existing licenses. In every case the Licensing Committee must still prove the need for conditions or for the refusal of a licence following a representation from either a responsible authority or interested party.

## **7.0 Regulatory Impact**

- 7.1 Regulators must have regard to the principles contained in the Regulators Code when undertaking regulatory activities, including the establishment of policies. The specific obligations of the existing and proposed code relevant to the Licensing and Cumulative Impact Policies are;

### **7.2 Economic Progress**

Regulators should consider the impact that their regulatory interventions may have on economic progress. They should only adopt a particular approach if the benefits justify the costs and it entails the minimum burden compatible with achieving their objectives. Regulators should consider the impact that their regulatory interventions may have on small businesses, ensuring that the regulatory interventions fall fairly and proportionately considering the size of the business and the nature of their activities.

7.3 **Assessment of Risk**

Regulators should ensure that the allocation of their regulatory efforts is targeted where they would be most effective by maximising their target outcomes. In general policies and activities must target those businesses where greater controls will lead to the increased promotion of the licensing objectives.

7.4 No evidence has been submitted that confirms a disproportionate detrimental economic effect of the policy. Local experience appears to demonstrate that there is not a disproportionate effect.

7.5 A Cumulative Impact Assessment will only affect businesses in areas where evidence exists of crime and disorder or public nuisance, thereby targeting further regulatory controls to areas of need. The policy is applied equally to all business sizes and would not have a disproportionate effect on small business. It is possible that small businesses may have greater scope to convince the Licensing Committee or the responsible authorities that their operations would not add further negative impact.

7.6 The application of controls through the Licensing Policy are all subject to a legal test of being appropriate.

**8.0 Conclusion**

8.1 The responses received in relation to the Statement of Licensing Policy are welcomed and the proposed new policy has been amended accordingly.

8.2 The operation of the Cumulative Impact Assessment to date has been undertaken in a proportionate way to balance the need to promote the licensing objectives and the needs of the evening and night time economy.

8.3 The evidence submitted by the Police in Appendix B shows elevated levels of crime and disorder due to the concentration of licensed premises within the current 5 identified separate Cumulative Impact Areas.

**Appendix A: Statement of Licensing Policy 2019-2024**