



Devon & Cornwall Police

Force Policy & Procedure	Liquor Licensing including Betting, Gaming and Lotteries
Reference Number	D069
Policy Version Date	27 April 2017
Review Date	26 April 2018
Policy Ownership	Prevention Department
Portfolio Holder	Assistant Chief Constable
Links or overlaps with other policies	D032 Records Management Policy

Contents:

1. Policy Statement
2. Introduction
 - 2.3 Legislation
 - 2.4 Betting, Gaming and Lotteries
 - 2.5 Door supervisors
 - 2.6 Staffing
 - 2.7 Financial implications
 - 2.8 Records management
 - 2.9 Partner agencies
3. Procedures
 - 3.1 Visits to Licensed premises
 - 3.2 Designated Public Place Orders (DPPO) Criminal Justice and Police Act 2001
 - 3.3 Police operations
 - 3.4 Pub Watch schemes and licensing associations
 - 3.5 Proof of age schemes
 - 3.6 Advice on licensing matters
 - 3.7 Early Morning Restriction Orders (EMROs) and Late Night Levy (LNL)
4. Assessment compliance
5. Review and ownership

1.0 Policy Statement

- 1.1 The aim of the policy is to ensure a uniform approach Force wide to specific licensing matters and, through robust enforcement of the relevant legislation, reduce the impact of licensable activities on the community.

- 1.2 In considering the police response, every licensing application and enforcement action will be treated on its own merits and the principles of ECHR will be maintained regarding legality, legitimacy, proportionality, necessity and accountability.
- 1.3 In using this policy, the following working practice documents should be referred to:
- TP10 – Agreement for Disclosure Between the Devon & Cornwall Police and the SIA
 - TP11 - Test Purchasing (Licensing)
 - TP12 – Closure Orders
 - TP13 – Licensing Information Disclosure Scheme
 - TP14 – Licensing Hearings and Appeals
 - TP15 - Exclusion Orders & Drinking Banning Orders (DBO)
- 1.4 In the application of this policy staff are reminded of the need to comply with the standards and principles of the Code of Ethics for policing.

2.0 Introduction

- 2.1 The purpose of this document is to provide advice and guidance to officers and police staff in respect of:
- The Licensing Act 2003
 - The Private Security Industry Act 2001 in respect of door supervisors working in licensed premises; and
 - The Gambling Act 2005.
- 2.2 In addition this Force also recognises the importance of adopting the principles contained within the Governments Alcohol Strategy (2012) and the Government's Safe, Sensible, Social (the next steps in the National Alcohol Strategy) 2007.

2.3 Legislation

2.3.1 Licensing Act 2003

- 2.3.1.1 Under the Licensing Act 2003 there are four licensable activities which require a licence:
- the sale by retail of alcohol;
 - the supply of alcohol by or on behalf of a club;
 - the provision of regulated entertainment, and
 - the provision of late night refreshment.
- 2.3.1.2 The Local/Unitary Authorities in this Force area are responsible for the administration and the granting of licences under this Act.
- 2.3.1.3 The police are a named Responsible Authority under the Act and have a duty to consider whether the granting of an application or notice would undermine any of the four licensing objectives, namely:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

2.3.1.4 When relevant this Force will make representations to promote the Licensing objectives. Procedures regarding licensing Hearings, Reviews and Appeals are given within working practice document TP14 – Licensing Hearings and Appeals.

2.4 Betting, Gaming and Lotteries

2.4.1 These activities are regulated by the Gambling Act 2005. As a general rule all betting, gaming and lotteries require a licence or permit unless they benefit from a statutory exemption. Because of the complexity of the law relating to betting, gaming and lotteries consideration should be given, whenever practicable, that all such matters should be dealt with by Licensing Officers. Officers who come into possession of intelligence suggesting the commission of offences must inform their Licensing Officer who may in turn seek guidance from Force Legal Advisors and the Gambling Commission.

2.5 Door Supervisors

2.5.1 All Police officers and Licensing Officers will carry out routine inspections of Door Supervisors to ensure compliance with the requirements of the Private Security Industry Act 2001 as required, either as part of a pre-planned operation or a routine Licensed Premises check. Civilian Licensing Officers are conferred a delegated authority to undertake these checks under s.19 of the Act by the SIA.

2.5.2 For information regarding door supervisors and the Security Industry Authority (SIA), reference should be made to working practice TP10 – Agreement for Disclosure between the Devon & Cornwall Police and the SIA.

2.6 Staffing

2.6.1 Responsibility for Licensing rests with the Chief Officer of Police, the Chief Constable. The responsibility is delegated to the head of Prevention Department and the Licensing staff employed within that department.

2.6.2 Police officers and licensing officers are expected to be aware of the relevant legislation and powers available to them to enable effective policing of the night time economy.

2.7 Financial Implications

2.7.1 The police receive no fees for their role in dealing with licensing applications.

2.7.2 In any contested licensing application costs cannot be awarded at the initial hearing before the Local Authority. Either party to the hearing can appeal to the Magistrates Court and at this stage costs can be awarded and the amounts

involved can be substantial. It is therefore imperative that advice is sought from the Force Legal Advisor at an early stage.

2.8 Records Management

- 2.8.1 The police are not the administrative body for any licences referred to in this policy and have no public duty to maintain full records. Records will be maintained for the purposes of processing applications and undertaking supervisory visits and enforcement activities. Devon and Cornwall Police manage all such records electronically.
- 2.8.2 All data retained will be done so in accordance with Force policy D032 – Records Management Policy, and the DPA.

2.9 Partner Agencies

- 2.9.1 Enforcement of the relevant legislation requires that the Force acts in partnership with other enforcement agencies to uphold Licensing Objectives. The following protocols have been formulated between the police and partner agencies:
- With the four Trading Standards Departments in the Force area regarding underage alcohol sales and the use of test purchasers;
 - An Exchange of Information Protocol with the Local/Unitary Authority areas;
 - An Enforcement protocol with the Local/Unitary Authority areas; and
 - A memorandum of understanding between the Security Industry Authority (SIA) and ACPO with linked Force working practice (See working practice TP10)

3.0 Procedures

3.1 Visits to Licensed Premises

- 3.1.1 Operational Police resources are encouraged to visit licensed premises as part of their normal duties. When entering premises, except in circumstances where they are operating covertly, Officers should identify themselves to the Designated Premises Supervisor (DPS) or responsible person and discuss the reason for their visit. A Licensed Premises Visit Checklist is included on the reverse of the L10. On completing the visit any Licensing intelligence gained will be passed to the Licensing team by way of an L10. This intelligence will be acknowledged, recorded and actioned as appropriate by the Licensing team.
- 3.1.2 Should matters arise which are considered to require immediate remedy, advice should be sought from the Licensing team and Force Legal services at the earliest possible opportunity.
- 3.1.3 When required officers may be tasked to visit premises to gather specific intelligence or information related to application or enforcement measures. In these circumstances officers will be briefed by the Licensing team as to the information sought and any action required.

3.2 Designated Public Place Orders (DPPO) Criminal Justice and Police Act 2001

- 3.2.1 Prior to making an order under this act, the Local Authority is required to consult with the police and other agencies and they may require some police data. Wherever possible, the Force will assist. The proposed introduction of a designation order should first be addressed at LPA Commander level in conjunction with the Local Authority. Such an order should be considered only as part of a co-ordinated strategy to tackle the problem and will not normally be supported by the police in isolation.
- 3.2.2 These orders create enforcement powers for the police. Although it will not be an offence to drink alcohol in a designated place, the police officer will have the power to require a person not to drink alcohol in that place and to surrender any alcohol or alcohol containers in the person's possession. Failure to comply with the officer's requirements without reasonable excuse will be an offence for which an individual may become liable to arrest.

3.3 Police Operations

- 3.3.1 When operations are contemplated in respect of licensed premises the expertise of the Licensing Unit and Force Legal Advisors should be sought at an early stage.
- 3.3.2 Before any covert operation commences, the Covert Intelligence Unit at Headquarters must be contacted to make sure that the operation does not compromise an existing investigation and complies with RIPA.
- 3.3.3 Further advice and procedural issues regarding test purchasing operations are included in working practice TP11 - Test Purchasing (Licensing).

3.4 Pub Watch Schemes and Licensing Associations

- 3.4.1 The setting up of Pub Watch Schemes and Licensing Associations is a way for the trade to support each other by working in partnership together to share best practice and, if required, exclude individuals from their premises.
- 3.4.2 The police will actively encourage the use of such schemes and will advise licensees on the practicalities of setting up a new scheme. The police will take no official position in any organisation (such as Chair or Secretary). Officers can attend these meetings as invited guests in any advisory capacity and will remove themselves from any involvement whatsoever in the banning of individuals or other decisions which may impact upon the private lives of individuals.
- 3.4.3 The Force operates a web based Information Disclosure service which is used to exchange photographs of offenders with individual DPSs and may be used to support schemes. The Information exchange agreement and use of this site is governed by the Working Practice Document.

3.5 Proof of Age Schemes

- 3.5.1 The Force and NPCC endorse proof of age cards which contain the PASS hologram.
- 3.5.2 The Force do not recommend the carrying of passports or driving licences as proof of age in the night time economy due to the risk of identity fraud if these items are lost or stolen.

3.6 Advice on licensing matters

- 3.6.1 In the first instance licensing advice should be sought from the Licensing team or Force legal advisors, advice is also available on the Intranet (Sharepoint), which can be found in the Prevention Department pages here.

3.7 Early Morning Restriction Orders (EMROs) and Late Night Levy (LNL)

- 3.7.1 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times. This power restricts the sale of alcohol in a defined area, for a specified period between the hours of 00:00 and 06:00. A Licensing Authority may propose an EMRO where it has identified a problem in a specific area attributable to the supply of alcohol. They must consult with the public, responsible authorities and all those affected as to the terms of the proposed order.
- 3.7.2 The LNL imposes a Levy on all premises within the Licensing Authorities area authorised to supply alcohol during a defined period between the hours of 00:00 and 06:00 and cannot be applied in the targeted manner of the EMRO.
- 3.7.3 The Force supports the implementation of these powers by Local Authority, where their implementation is appropriate and will actively consider requests which are made by Local Authorities for Police information to support their decision making.
- 3.7.4 Any consultations concerning these powers directed to the Chief Officer of Police will be co-ordinated by the Prevention Department Licensing team.

4.0 Assessment Compliance

- 4.1 This policy has been drafted and audited to comply with the principles of the Human Rights Act. Equality and diversity issues have also been considered to ensure compliance with Equality legislation and policies. In addition Data Protection, Freedom of Information, Management of Police Information and Health and Safety issues have been considered. Adherence to this policy will therefore ensure compliance with all relevant legislation and internal policies.

5.0 Review and Ownership

- 5.1 Ownership of this policy is the responsibility of the Head of Prevention Department. Review of the policy will be undertaken annually.