



## **Supplementary Alcohol and Entertainment Licensing Sub-Committee (B)**

**Wednesday 9 November 2016 at 6.00 pm**  
Board Room 2 - Brent Civic Centre, Engineers Way,  
Wembley HA9 0FJ

### **Membership:**

#### **Members**

Councillors:

Allie (Chair)  
Jones (substitute for Hylton)  
McLeish

#### **Substitute Members**

Councillors:

Eniola, Khan, Long, Mahmood  
and Ms Shaw

**For further information contact:** Joe Kwateng, Democratic Services Officer  
(020) 8937 1354; [joe.kwateng@brent.gov.uk](mailto:joe.kwateng@brent.gov.uk)

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:  
**[democracy.brent.gov.uk](http://democracy.brent.gov.uk)**

**The press and public are welcome to attend this meeting**

# Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

Item	Page
<b>2 Application by Ms Ionela Mihaela Madaras for a new premises licence for the sale and supply of alcohol from 08:00hrs to 23:00hrs Sunday to Thursday and to remain open from 00:00hrs to 23:59hrs Monday to Sunday at the premises known as 189 East Lane Wembley HA9 3NE, pursuant to the Licensing Act 2003.</b>	1 - 108

## Conduct of the Hearing:

The hearing shall proceed as follows:

- General introduction by the Regulatory Services Manager
- Case for the Responsible Authority – Police/Regulatory Services
- Questioning of the Responsible Authority by Applicant and Members
- Representations by interested parties (if any)
- Case for the Applicant
- Questioning of the Applicant by the Responsible Authority and Members
- Summing up by the Responsible Authority
- Summing up by a representative of interested parties (if any)
- Summing up by the Applicant

## Members' Deliberation

The Chair will then ask the representatives of the Responsible Authority and the Applicant to leave the meeting room whilst the panel goes into close session to deliberate the application. The applicant and the representatives of the responsible authority will be recalled to the meeting room when the Sub-Committee has made its decision. The decision will be confirmed in writing to the applicant within 7 days



Please remember to switch your mobile phone to silent during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.

# COMPLIANCE DIRECT LTD

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APPLICATION FOR A NEW PREMISES LICENCE AT 189 EAST LANE, WEMBLEY.

Compliance Direct Ltd is instructed by Ms Ionela Mihaela Madaras in this matter. We are serving the material attached to this letter to be used at the hearing on 9<sup>th</sup> November 2016 in support of this application.

This application has received representations from Police, Licensing Authority and Other Persons sighting that the premises has been encouraging street drinkers in the area and to this effect not to grant this application.

It is our case that, it is our business that has suffered the most by street drinkers and littering. From the photographs provided by the Police and photos attached to this statement makes it clear that the land behind or to the side of 189 does not belong to 189 and it is unreasonable to expect the occupiers of 189 to Police this area when the Police itself is accepting that even they cannot enter this area to deal with street drinkers.

The front and side of 189 now have been redesigned for fruit and vegetable display thus removing any space for persons to congregate. See photos from pages 3.

We have also attached premises licences with conditions of the nearby premises to provide guidance towards competition law and fair practices.

There are also extracts from the Statutory Guidance which we may refer along with the Council's Licensing Policy and the Home Office Guidance on DDPO's and the recently introduced Public Spaces Orders.

Compliance Direct Ltd









rowdene Rd  
England  
reet View - Jul 2015







24HR

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# FRESH FRUITS & VEG LA VANE



















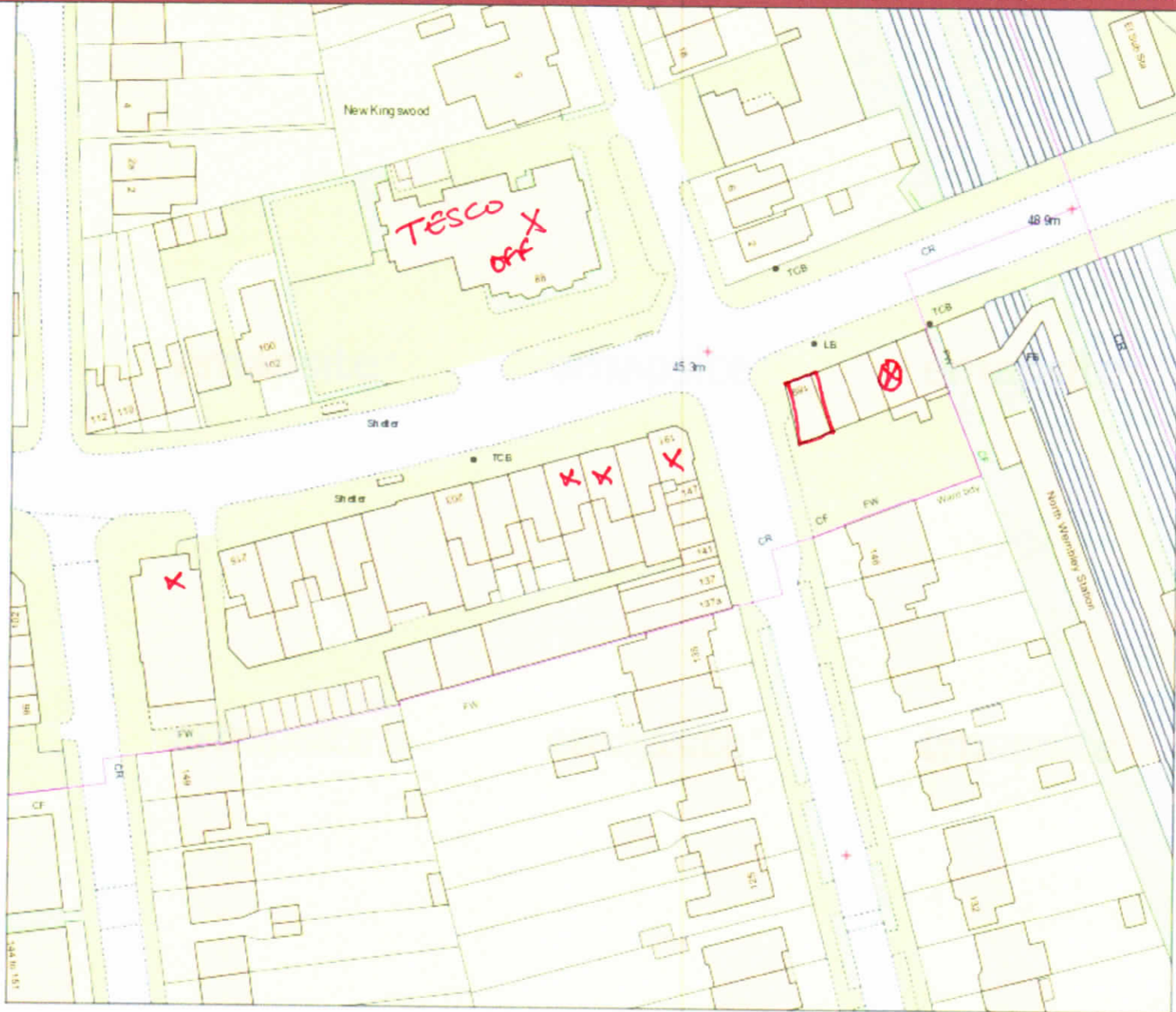






# LOCATION OF LICENSED PREMISES (WEST OF 189)

Your plan's position. The inner box is the mapping area, whereas the outer box shows the page size in proportion to the map.



191 — 0600 — 2300

86 — 0600 — 0000.

195 kebab — 0030, 0100.

197 off — 0800 — 2300

205-207  
convenience  
store — 0800 — 2300



# Location of Licensed Premises (EMI or US)

TEBLO



129 — 0600 — 0000

133 — 24 hours + LNR  
0500



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**Status**

Copy Licence Issued

**Licensee**

Tesco Stores Ltd

**Premises Details**

Address 86 East Lane, Wembley, HA0 3NJ

Post Town

Postcode HA0 3NJ

Telephone number

**Operating Schedule**

Desired Start Date 28/05/2015

Desired End Date

Activity Type

**Licensable Activities**

Is a variation of the premises licence while it is converted from the existing licence(s) under section 34 or 37 of the licensing act 2003 being applied for? No

Supply of alcohol Yes

**M. Supply of alcohol - Standard Times**

Day Monday

Start Time 06:00

End Time 00:00

Day Tuesday

Start Time 06:00

End Time 00:00



## M. Supply of alcohol - Standard Times

Day Wednesday

Start Time 06:00

End Time 00:00

Day Thursday

Start Time 06:00

End Time 00:00

Day Friday

Start Time 06:00

End Time 00:00

Day Saturday

Start Time 06:00

End Time 00:00

Day Sunday

Start Time 06:00

End Time 23:00

## M. Supply of alcohol - Further Details

On/Off Sales Off the premises

Seasonal Variations

Non-Standard Timings

## Premises Supervisor

No details entered

## O. Hours premises are open to the public - Standard Times



**O. Hours premises are open to the public - Standard Times**

Day Monday

Start Time 06:00

End Time 00:00

Day Tuesday

Start Time 06:00

End Time 00:00

Day Wednesday

Start Time 06:00

End Time 00:00

Day Thursday

Start Time 06:00

End Time 00:00

Day Friday

Start Time 06:00

End Time 00:00

Day Saturday

Start Time 06:00

End Time 00:00

Day Sunday

Start Time 06:00

End Time 23:00

**O. Hours premises are open to the public - Further Details**



## O. Hours premises are open to the public - Further Details

Seasonal Variations

Non-Standard Timings

## Mandatory Conditions

No details entered

## Embedded Conditions

No details entered

## Other Conditions

No details entered

## Case history

15/09/2015 Premises Licence Initial Application - Change of DPS 223618616

30/04/2015 Premises Licence Initial Application - Initial Application 223346227



## Licence Conditions

### **Tesco Stores 86 East Lane Wembley HA0 3NJ (Wembley Tube Station Express)**

- 1 CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and licensing officers if requested.
- 2 A CCTV camera shall be installed to cover the entrance of the premises
- 3 No high strength beers, lagers, and ciders above 5.5% ABV shall be stocked.
- 4 A copy of the premises licence summary including the hours which licensable activities are permitted shall be visible from the outside of each entrance to the premises.



## Status

Licence Granted

## Agent

Soma & Co Solicitors

## Licensee

Peroumal, Mr. Sundaranthan

Met Police

## Premises Details

Address North Wembley News  
129 East Lane

Post Town Wembley

Postcode HA9 7PB

Telephone number 020 8908 2304

## Operating Schedule

Desired Start Date 09/02/2009

Desired End Date

Activity Type

## Licensable Activities

Is a variation of the premises licence while it is converted from the existing licence(s) under section 34 or 37 of the licensing act 2003 being applied for? No

Supply of alcohol Yes

## M. Supply of alcohol - Standard Times

Day Monday

Start Time 06:00



## M. Supply of alcohol - Standard Times

End Time	00:00
Day	Tuesday
Start Time	06:00
End Time	00:00
Day	Wednesday
Start Time	06:00
End Time	00:00
Day	Thursday
Start Time	06:00
End Time	00:00
Day	Friday
Start Time	06:00
End Time	01:00
Day	Saturday
Start Time	06:00
End Time	01:00
Day	Sunday
Start Time	06:00
End Time	00:00

## M. Supply of alcohol - Further Details

On/Off Sales	Both?
Seasonal Variations	



## M. Supply of alcohol - Further Details

Non-Standard Timings

## Premises Supervisor

No details entered

## O. Hours premises are open to the public - Standard Times

Day Monday

Start Time 06:00

End Time 00:00

Day Tuesday

Start Time 06:00

End Time 00:00

Day Wednesday

Start Time 06:00

End Time 00:00

Day Thursday

Start Time 06:00

End Time 00:00

Day Friday

Start Time 06:00

End Time 01:00

Day Saturday

Start Time 06:00

End Time 01:00



## O. Hours premises are open to the public - Standard Times

Day	Sunday
Start Time	06:00
End Time	00:00

## O. Hours premises are open to the public - Further Details

Seasonal Variations

Non-Standard Timings

## Mandatory Conditions

No details entered

## Embedded Conditions

No details entered

## Other Conditions

No details entered

## Case history

19/11/2013 Premises Licence Initial Application - Premises Licence Minor Variation application 221917504

12/01/2009 Premises Licence Initial Application - Initial Application 464011



## **Licence Conditions**

### **North Wembley News 129 East Lane HA9 7PB**

- 1 CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and licensing officers if requested.
- 2 A CCTV camera shall be installed to cover the entrance of the premises made available to police and licensing officers if requested.
- 3 A sign stating "No proof of age – No sale" shall be displayed at the point of sale.
- 4 A "Challenge 21" policy shall be adopted and adhered to.
- 5 A refusal book shall be kept and maintained.
- 6 Promotions that encourage irresponsible drinking shall not be permitted.
- 7 No high strength beers, lagers, and ciders above 5.5% ABV shall be stocked with the exception of premium beers.
- 8 "Raid Control" crime prevention measures shall be installed and all staff given suitable training.
- 9 The licensee shall keep an incident book which shall be made available to the Police and Licensing Authority.
- 10 Signs alerting customers to theft shall be displayed.
- 11 A clear and unobstructed view into the premises shall be maintained at all times.
- 12 A copy of the premises licence summary including the hours which licensable activities are permitted shall be visible from the outside of each entrance to the premises.
- 13 suitable intruder alarm complete with panic button shall be fitted and maintained.
- 14 A personal licence holder fluent in English shall be present on the premises and supervise the sale of alcohol throughout the permitted hours for the sale of alcohol.
- 15 On major event days at Wembley Stadium the following shall apply:

- Customers shall not be allowed to congregate outside the premises.
  - The DPS shall work in partnership with the Police and if necessary comply with any direction given by the most senior Police Officer on duty at the event.
  - No alcohol or “alcopop” type drinks shall be displayed or sold in glass containers with the exception of wines and spirits.
- 16 All furniture and soft furnishings shall comply with relevant fire safety standards.
  - 17 A fire detection and warning system together with suitable and sufficient fire extinguishers shall be installed and maintained.
  - 18 Suitable and sufficient fire fighting equipment shall be installed and properly maintained.
  - 19 All deliveries shall take place during the normal working day (i.e. 09:00 to 18:00 daily).
  - 20 Advertising, security and access lighting shall be designed, installed and maintained so as not to cause a nuisance to nearby properties.
  - 21 Adequate illumination shall be provided and maintained to the external areas of the premises.
  - 22 Suitable receptacles for rubbish shall be made available outside the premises for customers to use and they shall be emptied regularly to prevent overflow or odours.
  - 23 The licensee shall ensure all public areas within 10 metres of the premises are cleared of litter arising from the premises daily.



## Status

Licence Granted

## Agent

Sainsbury's Supermarkets Ltd

## Licensee

Malthurst Limited

## Premises Details

Address	Malthurst Wembley 133-139 East Lane
Post Town	Wembley
Postcode	HA9 7PE
Telephone number	

## Operating Schedule

Desired Start Date	17/12/2009
Desired End Date	
Activity Type	

## Licensable Activities

Is a variation of the premises licence while it is converted from the existing licence(s) under section 34 or 37 of the licensing act 2003 being applied for?	No
Provision of late night refreshment	Yes
Supply of alcohol	Yes

## L. Late night refreshment - Standard Times

Day	Monday
Start Time	23:00

## L. Late night refreshment - Standard Times

End Time	05:00
Day	Tuesday
Start Time	23:00
End Time	05:00
Day	Wednesday
Start Time	23:00
End Time	05:00
Day	Thursday
Start Time	23:00
End Time	05:00
Day	Friday
Start Time	23:00
End Time	05:00
Day	Saturday
Start Time	23:00
End Time	05:00
Day	Sunday
Start Time	23:00
End Time	05:00

## L. Late night refreshment - Further Details

Seasonal Variations

Non-Standard Timings



**M. Supply of alcohol - Standard Times**

Day	Monday
Start Time	00:00
End Time	23:59
Day	Tuesday
Start Time	00:00
End Time	23:59
Day	Wednesday
Start Time	00:00
End Time	23:59
Day	Thursday
Start Time	00:00
End Time	23:59
Day	Friday
Start Time	00:00
End Time	23:59
Day	Saturday
Start Time	00:00
End Time	23:59
Day	Sunday
Start Time	00:00
End Time	23:59

**M. Supply of alcohol - Further Details**

**M. Supply of alcohol - Further Details**

On/Off Sales Off the premises

Seasonal Variations

Non-Standard Timings The applicant wishes to have flexibility to sell alcohol at all times that the store is open. The applicant may elect not to open the store 24 hours a day, every day

**Premises Supervisor**

No details entered

**O. Hours premises are open to the public - Standard Times**

Day Monday

Start Time 00:00

End Time 23:59

Day Tuesday

Start Time 00:00

End Time 23:59

Day Wednesday

Start Time 00:00

End Time 23:59

Day Thursday

Start Time 00:00

End Time 23:59

Day Friday

Start Time 00:00

End Time 23:59



## O. Hours premises are open to the public - Standard Times

Day	Saturday
Start Time	00:00
End Time	23:59
Day	Sunday
Start Time	00:00
End Time	23:59

## O. Hours premises are open to the public - Further Details

### Seasonal Variations

### Non-Standard Timings

The applicant may elect not to open the store 24 hours a day every day, but requires the flexibility to do so subject to statutory or operational restrictions.

### Mandatory Conditions

No details entered

### Embedded Conditions

No details entered

### Other Conditions

No details entered

### Case history

- 20/02/2012 Premises Licence Initial Application - Change of DPS 939357
- 29/07/2011 Premises Licence Initial Application - Change of DPS 813007
- 09/06/2011 Premises Licence Initial Application - Change of DPS 785126
- 09/02/2010 Premises Licence Initial Application - Change of DPS 582892
- 18/11/2009 Premises Licence Initial Application - Initial Application 557099

**Licence Conditions**  
**Malthurst 131-139 East Lane HA9 7PE**

- 1 A CCTV system will be installed, such system to be fit for the purpose and to be to the reasonable satisfaction of the Metropolitan Police.
- 2 The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will either be recorded on good quality video tape or digitally on to CD/DVD or other equivalent medium.
- 3 Any recording to be retained and stored in a suitable and secure manner for a minimum of 31 days and shall be made available, subject to compliance of data protection legislation, to the Police for inspection on request.
- 4 The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
- 5 The system will display on any recording the correct time and date of the recording.
- 6 The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
- 7 All cashiers shall be instructed, through training to enter in a refusal book (or electronic equivalent) details of any refusal to make a sale of alcohol to a customer.
- 8 The premises licence holder shall instruct the Designated Premises Supervisor to maintain an incident report register in which details of all incidents of crime and disorder shall be recorded. This shall be completed as soon as possible following an incident. The time and date when the report was completed, and by whom, is to form part of the entries. The register is to be kept on the premises and shall be produced to a police officer on request.
- 9 The entrance door to the shop will be closed between the hours of 23:00 and 05:00. Any sales between these hours will be made through the night pay window.
- 10 No high strength beers, lagers, and ciders above 5.5% ABV shall be stocked with the exception of premium beers.
- 11 A clear and unobstructed view into the premises shall be maintained at all times.
- 12 The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appear to be under the

V/Licences/Licensing Act 2003/conditions – Malthurst 131-139 East Lane HA9 7PE



age of 21 years (or older if the licence holder elects) for evidence of age. This evidence shall be photographic, such as a passport or photographic driving licence until other effective identification technology (for example, thumb print or pupil recognition) is adopted by the licence holder. All cashiers will be instructed through training, that a sale shall not be made unless this evidence is produced. Prominent notices will be displayed in the store advising customers that they may be asked to provide evidence of age.

**Status**

Licence Granted

**Agent**

Accu Price Services Limited

**Licensee**

Shah, Mr Rashmikanth Manharlal

**Premises Details**

Address	EAST LANE NEWS 191 East Lane
Post Town	Wembley
Postcode	HA0 3NG
Telephone number	020 8904 1318

**Operating Schedule**

Desired Start Date	11/08/2009
Desired End Date	
Activity Type	

**Licensable Activities**

Is a variation of the premises licence while it is converted from the existing licence(s) under section 34 or 37 of the licensing act 2003 being applied for?	No
Supply of alcohol	Yes

**M. Supply of alcohol - Standard Times**

Day	Monday
Start Time	06:00
End Time	23:00



## M. Supply of alcohol - Standard Times

Day	Tuesday
Start Time	06:00
End Time	23:00
Day	Wednesday
Start Time	06:00
End Time	23:00
Day	Thursday
Start Time	06:00
End Time	23:00
Day	Friday
Start Time	06:00
End Time	23:00
Day	Saturday
Start Time	06:00
End Time	23:00
Day	Sunday
Start Time	06:00
End Time	23:00

## M. Supply of alcohol - Further Details

On/Off Sales	Off the premises
Seasonal Variations	
Non-Standard Timings	

## Premises Supervisor

No details entered

## O. Hours premises are open to the public - Standard Times

Day Monday

Start Time 06:00

End Time 23:00

Day Tuesday

Start Time 06:00

End Time 23:00

Day Wednesday

Start Time 06:00

End Time 23:00

Day Thursday

Start Time 06:00

End Time 23:00

Day Friday

Start Time 06:00

End Time 23:00

Day Saturday

Start Time 06:00

End Time 23:00

Day Sunday

Start Time 06:00



## O. Hours premises are open to the public - Standard Times

End Time 23:00

## O. Hours premises are open to the public - Further Details

Seasonal Variations

Non-Standard Timings

## Mandatory Conditions

No details entered

## Embedded Conditions

No details entered

## Other Conditions

No details entered

## Case history

19/10/2015 Premises Licence Initial Application - Licensee Transfer Application 223452487

15/10/2015 Premises Licence Initial Application - Change of DPS 223443567

13/07/2009 Premises Licence Initial Application - Initial Application 517715

## Licence Conditions

### East Lane News 191 East Lane HA0 3NG

- 1 CCTV shall be installed to Home Office Guidance standards and maintained in a good working condition and recordings shall be kept for 31 days and shall be made available to police and licensing officers if requested.
- 2 A CCTV camera shall be installed to cover the entrance of the premises.
- 4 A recognised age restriction policy shall be adopted and adhered to.
- 5 A refusal book shall be kept and maintained.
- 6 No high strength beers, lagers, and ciders above 5.5% ABV shall be stocked with the exception of premium beers.
- 7 "Raid Control" crime prevention measures shall be installed and all staff given suitable training.
- 8 The licensee shall keep an incident book which shall be made available to the Police and Licensing Authority.
- 9 A clear and unobstructed view into the premises shall be maintained at all times.
- 10 A suitable intruder alarm complete with panic button shall be fitted and maintained.
- 11 A personal licence holder fluent in English shall be present on the premises and supervise the sale of alcohol throughout the permitted hours for the sale of alcohol.
- 12 The premises shall be staffed by a minimum of 2 persons after 18:00 hours.
- 13 All deliveries shall take place during the normal working day (i.e. 09:00 to 18:00 daily) with the exception of traditional early deliveries such as newspapers, bread and milk.



**Status**

Works Notice

**Agent**

LTTA Licensed Trade Training Academy

**Licensee**

Satkunarajah, Muthiah

**Premises Details**

Address	SELVAMS FOOD & WINE 197 East Lane
Post Town	Wembley
Postcode	HA0 3NG
Telephone number	020 8904 4359

**Operating Schedule**

Desired Start Date	01/04/2006
Desired End Date	
Activity Type	Convenience Store

**Licensable Activities**

Is a variation of the premises licence while it is converted from the existing licence(s) under section 34 or 37 of the licensing act 2003 being applied for?	No
Supply of alcohol	Yes

**M. Supply of alcohol - Standard Times**

Day	Monday
Start Time	08:00
End Time	23:00

**M. Supply of alcohol - Standard Times**

Day	Tuesday
Start Time	08:00
End Time	23:00
Day	Wednesday
Start Time	08:00
End Time	23:00
Day	Thursday
Start Time	08:00
End Time	23:00
Day	Friday
Start Time	08:00
End Time	23:00
Day	Saturday
Start Time	08:00
End Time	23:00
Day	Sunday
Start Time	08:00
End Time	23:00

**M. Supply of alcohol - Further Details**

On/Off Sales	Off the premises
Seasonal Variations	
Non-Standard Timings	Christmas Eve & New Years Eve until 00:00



**Premises Supervisor**

No details entered

**O. Hours premises are open to the public - Standard Times**

Day Monday

Start Time 05:30

End Time 23:00

Day Tuesday

Start Time 05:30

End Time 23:00

Day Wednesday

Start Time 05:30

End Time 23:00

Day Thursday

Start Time 05:30

End Time 23:00

Day Friday

Start Time 05:30

End Time 23:00

Day Saturday

Start Time 05:30

End Time 23:00

Day Sunday

Start Time 05:30

**O. Hours premises are open to the public - Standard Times**

End Time 23:00

**O. Hours premises are open to the public - Further Details**

**Seasonal Variations**

Non-Standard Timings Christmas Eve and New Years Eve until 00:00

**Mandatory Conditions**

No details entered

**Embedded Conditions**

No details entered

**Other Conditions**

No details entered

**Case history**

11/05/2016 Premises Licence - Premises Licence Minor Variation application 223600902

18/02/2013 Premises Licence - Premises Licence Minor Variation application 1478342

03/08/2012 Premises Licence - Change of DPS 1104102

20/10/2009 Premises Licence - Licensee Transfer Application 547263

17/01/2008 Premises Licence - Change of DPS 332762

26/10/2007 Premises Licence - Licensee Transfer Application 309520

06/03/2006 Premises Licence - Initial Application 177702

**Licence Conditions**  
**Ashley Cash & Carry 197 East Lane HA0 3NG**

- 1 "Raid Control" crime prevention measures shall be installed and all staff given suitable training.
- 2 The Portman Group proof of age scheme or similar such scheme shall be adopted.
- 3 A copy of the premises licence summary including the hours which licensable activities are permitted shall be visible from the outside of each entrance to the premises.
- 4 A personal licence holder shall be present on the premises and supervise the sale of alcohol throughout the permitted hours for the sale of alcohol.



**Status**

Licence Granted

**Agent**

Premier Wholesale (UK) Ltd

**Licensee**

Kaur, Mrs. Arvinder

**Premises Details**

Address	Londis 205-207 East Lane
Post Town	Wembley
Postcode	HA9 3NG
Telephone number	020 8904 1715

**Operating Schedule**

Desired Start Date	24/11/2005
Desired End Date	
Activity Type	Convenience Store

**Licensable Activities**

Is a variation of the premises licence while it is converted from the existing licence(s) under section 34 or 37 of the licensing act 2003 being applied for?	No
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Supply of alcohol	Yes
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**M. Supply of alcohol - Standard Times**

Day	Monday
Start Time	08:00
End Time	23:00

**M. Supply of alcohol - Standard Times**

Day Tuesday

Start Time 08:00

End Time 23:00

Day Wednesday

Start Time 08:00

End Time 23:00

Day Thursday

Start Time 08:00

End Time 23:00

Day Friday

Start Time 08:00

End Time 23:00

Day Saturday

Start Time 08:00

End Time 23:00

Day Sunday

Start Time 10:00

End Time 22:30

**M. Supply of alcohol - Further Details**

On/Off Sales Off the premises

Seasonal Variations

Non-Standard Timings Good Fridays 08:00hrs to 22:00hrs  
Christmas Day 12:00hrs to 15:00hrs and 19:00hrs to 22:30hrs

**Premises Supervisor**

No details entered

**O. Hours premises are open to the public - Standard Times**

No details entered

**O. Hours premises are open to the public - Further Details**

Seasonal Variations

Non-Standard Timings

**Mandatory Conditions**

No details entered

**Embedded Conditions**

No details entered

**Other Conditions**

No details entered

**Case history**

24/05/2013 Premises Licence - Change of DPS 1652392

01/05/2013 Premises Licence - Licensee Transfer Application 1573657

02/08/2005 Premises Licence - Conversion Application 161512



## Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives;
  - *must be precise and enforceable*;
  - must be unambiguous and clear in what they intend to achieve;
  - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
  - must be tailored to the individual type, location and characteristics of the premises and events concerned;
  - should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
  - should not replicate offences set out in the 2003 Act or other legislation;
  - should be proportionate, justifiable and be capable of being met;
  - cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
  - should be written in a prescriptive format.

## Each application on its own merits

- 1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

## Additional guidance

- 1.18 From time to time, the Home Office may issue additional supporting guidance to licensing authorities and other persons on the Gov.uk website. This supporting guidance is good practice guidance and should be viewed as indicative and subject to change. Such supporting guidance will broadly reflect but will not be part of the statutory guidance issued by the Secretary of State under section 182 of the 2003 Act. Licensing authorities may wish to refer to, but are under no statutory duty to have regard to such supporting guidance issued by the Home Office.

# LONDON BOROUGH OF BRENT

## LICENSING ACT 2003

### NOTICE OF APPLICATION FOR LICENCES

Date: \_\_\_\_\_

(a) Full  
names of  
applicant

NOTICE IS GIVEN THAT (a) \_\_\_\_\_

(b) Name &  
address of  
premises

trading at: (b) \_\_\_\_\_

(c) A new  
premises  
licence or  
a variation to  
the existing  
licensable  
activities

has applied to Brent Council for (c) \_\_\_\_\_

as stated below:

Licensable Activities	Mon		Tues		Wed		Thur		Fri		Sat		Sun	
	Start	Finish	Start	Finish	Start	Finish	Start	Finish	Start	Finish	Start	Finish	Start	Finish

Anyone wishing to oppose the application must give notice in writing to the:

HEAD OF SERVICE, REGULATORY SERVICES  
BRENT CIVIC CENTRE, ENGINEERS WAY, WEMBLEY, HA9 0FJ.  
TEL: (020) 8937 5359 WITHIN 28 DAYS OF THE DATE OF THIS NOTICE,  
specifying the grounds of opposition.

Persons objecting to the grant of licences must be prepared to attend in person at a hearing before a committee of the Council.

NOTE: Your objection will form part of the committee report and forwarded to the applicant.  
Please let us know if you have a valid reason for your personal details to be removed.

This notice must be completed and on the same day on which the application is made must be exhibited on a conspicuous part of the premises where it can easily be seen and read by persons in the street. The notice must be kept exhibited for not less than 28 days.

by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.

- 9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.
- 9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.
- 9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

## **Disclosure of personal details of persons making representations**

- 9.25 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.26 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.



- 9.27 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.28 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.29 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

## Hearings

- 9.30 Regulations governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.31 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.32 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.33 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.34 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination.

## Other persons

- 8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous, vexatious and repetitious representations.
- 8.13 While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

## Who can apply for a premises licence?

- 8.14 Any person (if an individual aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period.
- 8.15 "A person" in this context includes, for example, a business or a partnership. Licensing authorities should not require the nomination of an individual to hold the licence or determine the identity of the most appropriate person to hold the licence.
- 8.16 In considering joint applications (which is likely to be a rare occurrence), it must be stressed that under section 16(1)(a) of the 2003 Act each applicant must be carrying on a business which involves the use of the premises for licensable activities. In the case of public houses, this would be easier for a tenant to demonstrate than for a pub owning company that is not itself carrying on licensable activities. Where licences are to be held by businesses, it is desirable that this should be a single business to avoid any lack of clarity in accountability.
- 8.17 A public house may be owned, or a tenancy held, jointly by a husband and wife, civil partners or other partnerships of a similar nature, and both may be actively involved in carrying on the licensable activities. In these cases, it is entirely possible for the husband and wife or the partners to apply jointly as applicant for the premises licence, even if they are not formally partners in business terms. This is unlikely to lead to the same issues of clouded accountability that could arise where two separate businesses apply jointly for the licence. If the application is granted, the premises licence would identify the holder as comprising both names and any subsequent applications, for example for a variation of the licence, would need to be made jointly.



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# competence

/'kɒmpɪt(ə)ns/ *noun*

1. the ability to do something successfully or efficiently.

"courses to improve the competence of staff"

synonyms: capability, ability, competency, capacity, proficiency, accomplishment, adeptness, adroitness, knowledge, expertise, expertness, skill, skilfulness, prowess, mastery, resources, faculties, facilities, talent, bent, aptitude, artistry, virtuosity; More



## 2. The licensing objectives

### Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

## Other mechanisms for controlling cumulative impact

- 13.40 Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. To enable the general public to appreciate the breadth of the strategy for addressing these problems, statements of policy should also indicate the other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:
- planning control;
  - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
  - the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
  - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
  - the confiscation of alcohol from adults and children in designated areas;
  - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
  - prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
  - police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance; and
  - the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate.
  - Raising a contribution to policing the late night economy through the Late Night Levy.
  - Early Morning Alcohol Restriction Orders (see Chapter 16).
- 13.41 As part of its licensing policy, the licensing authority may also wish to consider the use of alternative measures such as fixed closing times, staggered closing times and zoning within its area, providing such mechanisms are justified on the basis of the licensing objectives and are only presumptive, with final decisions continuing to be made in relation to individual premises on a case by case basis in accordance with what is appropriate to promote the licensing objectives. The licensing authority would be expected to include its intention to use such measures in its statement of licensing policy and justify doing so in order to orchestrate closing times so as to manage problems in the night-time economy based on the promotion of the licensing objectives. As with the creation of a CIP, the use of such mechanisms would create a rebuttable presumption and would apply in the event of representations being received.

## Public Spaces Protection Order

- 13.42 The Designated Public Place Order (DPPO) has been replaced by the Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014<sup>12</sup>. PSPOs can be used to restrict the drinking of alcohol in a public space where this has *or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable*. Before making a PSPO, a council

<sup>12</sup> For full guidance on the PSPO please see the statutory guidance on the 2014 Act: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf)

concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

## Licence conditions

- 13.14 Statements of licensing policy should reflect the general principles regarding licence conditions set out in Chapter 1 of this guidance.
- 13.15 Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible. Chapter 10 provides further detail on this issue.

## Enforcement

- 13.16 The Government recommends that licensing authorities should establish and set out joint-enforcement protocols with the local police and the other authorities and describe them in their statement of policy. This will clarify the division of responsibilities for licence holders and applicants, and assists enforcement and other authorities to deploy resources more efficiently.
- 13.17 In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. In some local authority areas, the limited validity of public entertainment, theatre, cinema, night café and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether the assessed risks make such inspections necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. Principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton review) should prevail and, for example, inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and for example, are more effectively concentrated on problem premises.

## Entertainment provision

- 13.18 Statements of licensing policy should set out the extent to which the licensing authority intends to facilitate a broad range of entertainment provision for enjoyment by a wide cross-section of the public. Statements of licensing policy should address what balance is to be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. Licensing authorities should be conscious that licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors.

## The need for licensed premises

- 13.19 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.



## **ICO view on CCTV installation being made a condition of an alcohol licence by the licensing authority**

The Data Protection Act 1998 (the Act) regulates the holding and processing of personal information that relates to living individuals and which is contained in, or related to, images captured using CCTV.

Over the last few months the ICO has received a number of complaints from landlords, privacy activists and journalists stating that licensing authorities are making CCTV a condition of a licence as a matter of course.

CCTV installation and use should not be made a condition of an alcohol licence unless there is a justification for doing so. If there has been no history of crime or antisocial behaviour associated with your premises and no likelihood of future trouble, it is difficult to see how the installation of CCTV can be justified as a licensing condition to prevent crime or antisocial behaviour. If you have had no ongoing problems with minors buying alcohol on your premises, then this cannot be the justification for making CCTV a condition of your licence.

Licensing authorities are able to set conditions on any licence they grant to sell alcohol. However, conditions which are placed on a licence must be consistent with the details contained in the application for a licence, such as the plan of the bar or the times that alcohol might be provided, and must help to meet the licensing objectives. Licensing authorities are also bound, as public bodies, to ensure that they act in accordance with the provisions of the Human Rights Act 1998 and that any processing of CCTV is necessary and proportionate to meet a legitimate aim. In addition, any retention, use or disclosing of personal information caught on CCTV must be carried out in line with the data protection principles.

### **Licensing policies**

All licensing authorities are required to produce a licensing policy. Many of these licensing policies present the installation of CCTV as a model condition for obtaining a licence to sell alcohol. This runs contrary to the need for licensing authorities to consider CCTV installation on a case by case basis.

In addition, many of these model conditions include provision that CCTV images should be provided to local police services "on request". This wording does not fit in with the provisions of the Data Protection Act 1998 (which requires a prejudice test) and could be seen as contradicting the UK's obligations to implement the provisions of the European Data Protection Directive.

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# Reducing the strength

Guidance for councils considering setting up a scheme







# Contents

Introduction	4
Alcohol consumption and street drinking	6
Defining street drinking	6
Tackling street drinking	7
Setting up a 'Reducing the Strength' project	8
Core principles of good schemes	8
Designing and launching a scheme – step by step guide	9
Checklist/summary	14
Legal considerations – competition law and the Licensing Act	14
Competition law and Reducing the Strength schemes	14
Licensing conditions and Reducing the Strength schemes	15
Case studies	16
Suffolk	16
Portsmouth	18
Want to know more?	19

# Introduction

Councils have multiple roles in relation to the sale, consumption and impact of alcohol in their local areas. As licensing authorities, they are responsible for authorising the sale of alcohol by licensed premises in accordance with the four licensing objectives, a role that extends to working in partnership with businesses, the police and others to ensure that alcohol is enjoyed safely and responsibly. Since 2013, when responsibility for public health returned to councils, they have also assumed responsibility for reducing the harmful health impacts of alcohol misuse on individuals and communities. The challenge for councils is to find the right balance between these different objectives.

There is scope for developing innovative approaches in this area, and many examples of projects seeking to address these objectives. One such project is an approach to tackling the harmful effects of strong and low cost alcohol products through 'Reducing the Strength' campaigns.

Reducing the Strength refers to initiatives designed to tackle the problems associated with street drinking by removing from sale low price high-strength alcohol products through voluntary agreements with local retailers. Suffolk was the first area to adopt the approach back in 2012 and since then a number of other places have followed. The models used vary from place-to-place, but tend to target alcohol products above 6.5 per cent alcohol by volume (abv), although some have focused on a slightly lower abv or lower cost products.

The early success of the scheme in Suffolk generated significant interest in Reducing the Strength schemes, with former Crime Prevention Minister Norman Baker MP praising councils' 'initiative and determination to find ways to tackle the harms associated with high volume super-strength alcohol.' However, there have also been a number of concerns raised about them, particularly by retailer and producer associations.

The primary concerns raised have been whether such schemes breach competition law and/or whether councils have breached the Licensing Act by seeking to put in place blanket licensing conditions. Concerns have also been raised about whether more recent schemes have adopted the evidence based, holistic approach of the original Suffolk scheme, which aimed to tackle a particular problem in a specific area through a joined up approach with other agencies. Finally, there are concerns about unintended consequences, such as the removal of products that were not a target for such schemes.

The aim of this guidance is to help ensure that Reducing the Strength schemes are designed and established in a way that addresses these concerns and complies with relevant legislation. We have worked closely with industry associations, as well as the Competition and Markets Authority, to understand the risks associated with these schemes and identify how they can be best addressed, so that anyone implementing a Reducing the Strength scheme can do so on a fully informed basis and taking account of best practice drawn from elsewhere, in particular Suffolk and Portsmouth, who have shared case studies for this document.



In producing this guidance, we are not seeking to encourage councils to adopt Reducing the Strength schemes; individual councils and their partners will reach their own decisions based on local circumstances, and the decisions reached will vary from place to place. However, in light of ongoing concern about these schemes among some sections of the industry, and the risk that a producer trade body may yet seek to challenge these schemes in court, we urge any council that is considering embarking on a Reducing the Strength scheme to familiarise themselves with the issues outlined in this document and seek their own legal advice before implementing a Reduce the Strength scheme.

# Alcohol consumption and street drinking

Councils face a challenge in terms of their public health role and alcohol. On the one hand, the vast majority of people who enjoy alcohol do so responsibly and without causing immediate harm to either themselves or others. Furthermore, alcohol and the wider hospitality industry make an extremely significant contribution to the national and local economies through bars, pubs, clubs and restaurants.

Yet there is also a clear body of evidence demonstrating that drinking habits are harming the nation's health as well contributing to problems on the streets of towns and cities. The Health and Social Care Information Centre estimates that about 1.6 million adults in England are dependent on alcohol, and alcohol misuse can lead to a wide range of conditions, including cancer, heart disease, strokes and, of course, liver disease. It is also believed to be a factor in about half of all violent crime and domestic abuse and is estimated to cost the country £11 billion a year in terms of criminal justice (or £21 billion when health and loss of productivity is taken into account).

To balance these two realities, the most effective approach for councils to take in managing alcohol will be to use their health and licensing roles to target specific issues and problems arising from the consumption of alcohol, rather than taking a universal approach that affects those who are drinking responsibly. Reducing the strength schemes are a good example of this targeted approach and are one of a range of tools used to tackle alcohol related harm.

## Defining street drinking

A street drinker is defined as a person who drinks heavily in public places and, at least in the short term, is unable or unwilling to control or stop their drinking, has a history of alcohol misuse and often drinks in groups for companionship (Lamb, 1995). People who are street drinkers are likely to be at increased risk of causing harm to themselves or others and may be involved in antisocial behaviour such as begging, or rowdy drunken behaviour that can be intimidating or even violent. Street drinkers are often, although not exclusively, associated with homelessness; homeless charity Thames Reach has stated that strong and cheap alcohol is responsible for more deaths among the homeless than heroin or crack cocaine combined.<sup>1</sup>

Street drinking can have an extremely damaging impact on local communities and peoples' perception of them, including on businesses in close proximity to places where street drinkers congregate.

Street drinkers often consume high strength alcohol. The definition of high strength varies, but for the purposes of Reducing the Strength schemes has tended to refer to products from around 6.5 per cent abv upwards. There is a wide range of beers available around the 8 to 9 per cent abv mark – as well as a number of high-strength white ciders – and a single 500ml can of high strength lager can contain over four units of alcohol, more than the daily lower risk drinking guidelines for both men and women. A recent ruling by the Portman Group Independent Complaints

<sup>1</sup> [www.thamesreach.org.uk/news-and-views/campaigns/super-strength-drinks](http://www.thamesreach.org.uk/news-and-views/campaigns/super-strength-drinks)

Panel<sup>2</sup> found that 500ml cans of 9 per cent abv Tennents Super 'encouraged immoderate consumption', as a single can contained more than the government guidelines and contents are encouraged to be consumed by one person in one setting. The product was therefore found to breach Rule 3.2 (f) of the Portman Group Code, which states that 'a drink, its packaging or promotion should not encourage illegal, irresponsible or immoderate consumption, such as binge drinking, drunkenness or drink-driving.' Consequently, licensees have been asked not to place orders for stocks of the product after 31 December 2014

The Portman Group issues alerts with their latest decisions, and councils may wish to sign-up for these alerts and encourage local retailers to do the same.

Clearly, not all high-strength products are consumed in the same way. A number of high-strength products are targeted at the luxury end of the market and are rarely associated with street drinking and/or alcohol-related violence. Any scheme will need to make provision to exclude premium and craft products that are not associated with street drinking or other anti-social behaviour being targeted by schemes.

However, low price high-strength products are most commonly associated with street drinkers and rough sleepers, and are therefore linked to some of the specific issues experienced by these groups and the communities where they are based.

## Tackling street drinking

Initiatives to deal with street drinking have included controlling mechanisms such as by-laws, public space protection orders, or anti-social behaviour orders. The government's public health responsibility deal – its voluntary partnership with industry – is also having an influence. In July 2014, it was announced that from December 2014 those

signing up to the agreement would not sell alcohol products with more than four units per 440ml can. Tesco and Morrisons were among the early retailers to sign up, although it is unclear what level of support there is in the wholesale retail market, which supplies the vast majority of off licence premises.

### **A partnership approach: the Responsibility Deal**

The Responsibility Deal aims to tap into the potential for businesses and other influential organisations to make a significant contribution to improving public health by developing a more collaborative approach to tackling the challenges caused by our lifestyle choices.

Since its launch in March 2011, the Public Health Responsibility Deal has harnessed the potential for businesses to play their part in shaping an environment which supports people to make healthier choices. To date, over 600 companies have made commitments covering alcohol, food, health at work and physical activity.

However, it is local initiatives that can really tackle problems associated with street drinking, through a series of targeted measures involving a range of different services or interventions. Since many street drinkers will be alcohol dependent or have entrenched problems with alcohol misuse, effective solutions will include the offer of support services to tackle alcohol dependency.

For example, Suffolk's approach to street drinking involved the provision of treatment, education and alternative accommodation in addition to removing selected products from the shelves. It is this comprehensive package that has achieved the significant reductions in street-drinking and alcohol-related violence in the town; one measure in isolation would not have been as effective.

<sup>2</sup> [www.portmangroup.org.uk/docs/default-source/complaint-decisions/rab-flyer\\_tennentssuper-vfinalA7E479E8F3F8.pdf?sfvrsn=2](http://www.portmangroup.org.uk/docs/default-source/complaint-decisions/rab-flyer_tennentssuper-vfinalA7E479E8F3F8.pdf?sfvrsn=2)



# Setting up a ‘Reducing the Strength’ project

## Core principles of good schemes

There are many shared characteristics of successful Reducing the Strength schemes, but they can be summarised under three broad headings.

### **Using the evidence base to agree clear, targeted objectives**

The most effective schemes will be underpinned by a clear, localised evidence base that provides the rationale for both the scheme and its specific objectives, in terms of targeting particular issues, products or areas. Starting with a solid evidence base will also enable councils and their partners to monitor the impact of the scheme and evaluate its success.

### **Engaging and communicating**

Good schemes will be characterised by early and ongoing communication with partners such as the police, public health teams and local support services / third sector organisations (eg, those working with the homeless, or people with substance addictions), as well as with local businesses, who are pivotal to a scheme’s success. Treating businesses as partners, managing the competition law risk to them and understanding businesses’ concerns and constraints are all important elements of a scheme.

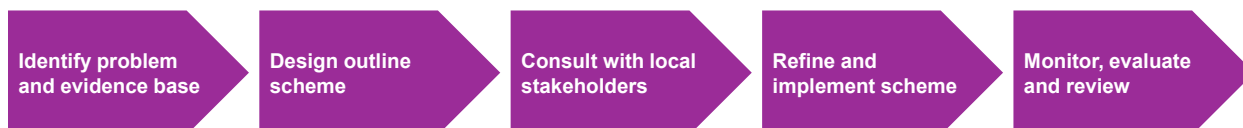
### **Taking a holistic approach**

The original Suffolk scheme was a success in part because it applied a comprehensive approach to tackling street drinking, rather than using a single isolated measure. Schemes are more likely to be successful

if they apply a range of different tools in a collaborative, comprehensive approach to the problem of street drinking, based on engaging with and involving the partners identified above.

# Designing and launching a scheme – step by step guide

There are five key steps to launching a Reducing the Strength scheme:



## Identify problem and evidence base

- **Determine whether there is a problem that needs addressing, what it is and what the evidence shows.** The areas that have shown most interest in Reducing the Strength are ones where street drinking and anti-social behaviour are serious problems in specific places. If this is an issue in your area, the council and partners are already likely to know where the problems are, but a review of crime statistics and homeless reports as well as A&E figures will help to evidence this. You may want to use the metrics available on LG Inform<sup>3</sup> to profile your area and compare with other areas with similar demographics.
- **Talk to businesses, the public and local partners (including the police, health teams and charities) to see if they identify the same problems, and what solutions they might suggest.** What are the issues of concern to local residents and businesses? Are there other issues that could be tackled at the same time as the issue you want to address? What support might others be able to provide? If there is a local Business Improvement District, can it provide support in any way?
- **Consider alternative approaches that may be cheaper, easier, and more practical for retailers and other stakeholders.** For example, if a small number of street drinkers have been identified, would it be possible to work with retailers to ensure that those individuals are not served?
  - For instance, a recent survey by the Association of Convenience Stores (ACS) found that retailers often felt intimidated, or risked physical assault, if they refused to sell to a person who was drunk. Provision of community safety and policing support may help them to refuse sales, immediately improving the situation on the streets; Usdaw's 'Freedom from fear' campaign also has some useful information on this.<sup>4</sup> Your local pubwatch, Purple Flag Board, Community Alcohol Partnership or Chamber of Commerce may be a good starting point for addressing these issues.
  - Similarly, there are many other schemes that can be effective at tackling issues such as underage sales, violence in licensed premises, or reducing conflict at closing time. These schemes are outside the scope of this guide, but more information can be found on the British Beer and Pub Association website [www.beerandpub.com/industry-briefings/local-alcohol-partnerships](http://www.beerandpub.com/industry-briefings/local-alcohol-partnerships).

3 [www.local.gov.uk/about-lginform](http://www.local.gov.uk/about-lginform)

4 [www.usdaw.org.uk/campaigns/freedom-from-fear](http://www.usdaw.org.uk/campaigns/freedom-from-fear)

- A sound evidence base is essential for most licensing decisions or partnership work, and you may be able to use the evidence to introduce a cumulative impact policy, late-night levy, or even build the case for a health objective in the Licensing Act 2003.
- **Weigh up your options for addressing the issues and decide whether Reducing the Strength is the best solution.**

### Design outline scheme

- If you decide there is a role for Reducing the Strength in your area, you should use the available evidence, supported by early discussions with local partners and businesses, to **design an outline approach** covering the:
  - **street drinkers and problem drinkers you are seeking to influence**
  - **products** being consumed by street drinkers
  - **places where these products are available** – including retail outlets but also the black market and informal supply that could be missed by focusing only on shops
  - **geographic area you wish to apply this to**
  - **proposed terms** you would like people to sign up to eg, voluntary removal/ targeted licensing conditions etc
  - different **elements of the scheme that will support the product-focused element** eg, outreach support for street drinkers, detox programmes, alcohol nurses in A&E etc.
- You will need to be clear **about the products that evidence indicates are associated with the local problems you are trying to address.**
  - For example, before establishing their scheme, **Suffolk mapped out which specific products were associated with street drinking or incidents of violence** and was consequently able to narrow down their action to target a very specific, evidence-based set of high strength products. Other high-strength products, mostly those at the luxury end, were therefore exempted from the scheme as they didn't contribute to street drinking or violence.
- Similarly, **Portsmouth identified products found at the scene of violent crimes, domestic abuse and alcohol related disorder**, all of which had an ABV of 6.5 per cent or higher. Their work with the homeless and homeless charity Centrepont also identified that homeless people are more likely to drink alcohol from plastic bottles and cans, due to the risks of glass packaging breaking in areas where they plan to sleep or being used as a weapon.
- **It would be sensible to conduct a similar review of products as part of the design stage of a Reducing the Strength scheme.**
- Equally, the available evidence should be used to help **identify the specific geographical area that the scheme will focus on.** In some places, this may be just a few places within a much wider area; alternatively, there may be a rationale for taking a broader approach. The key issue is that the evidence supports your approach, as this is likely to increase participation in the scheme. You should also consider the risk of displacing the problem, either to different locations or on to different products.
- A third key feature of **the scheme will be the approach you are expecting to take with local retailers;** while some places have opted for a simple voluntary removal of certain products, others have sought to add this as a condition to licences.
  - **Businesses may have different views about whether they wish to participate in the scheme and whether or not they are happy to add a formal condition to their licence.** If you can, it will help to take a flexible approach on this – verbal agreements have worked in many places and formal conditions may not be necessary.



- Based on earlier and ongoing discussions with partners, **you should identify the additional elements of the scheme that will help achieve the overall objective**, whether that is support and/or enforcement by licensing teams and the police; health and third sector support for individuals used to accessing these product; or retailers being given support or training or retailers helping to train one another etc. There may be other things that retailers can do to support these objectives if you discuss this with them and give them the opportunity.
- When you have an outline approach, you should **seek legal advice**. The next section of this guide sets out the main issues you will need to consider under Competition Law and the Licensing Act, but **you will always need to obtain your own legal advice and undertake a risk assessment to ensure the detail of your scheme is legal in relation to both**.
- You may wish to **develop a brand for the scheme, as well as a communications plan to implement once the scheme is formally launched**. In order to avoid breaching competition law, it would be prudent to ensure these are not actually used until the scheme has been launched – more detail is provided on this in the following section.
  - The communications plan **should communicate what you are trying to do**. Use launch events, meet retailers face-to-face, talk to community groups and work with local media. You need to explain your reasoning to your residents, and secure their support for what you are doing. Councillors will be key players in achieving this.
- Schemes should be designed so that the **objectives are clear and measurable** and you should agree at the outset how the scheme, supported by the enforcement of current policies and licensing conditions, can help to meet these objectives. The design process should also include **identifying measures or metrics to evaluate the success of the scheme once it is finalised**.

## Consult with local stakeholders

- It is **advisable to engage with local retailers and businesses throughout the design process, and you may also wish to build in a formal consultation process when you have an outline design of the scheme**. The most successful approach with retailers is likely to be one that sets out the evidence base and rationale for what you are trying to, and treats them as a partner in the scheme that actively encourages feedback. **Equally, it is important to engage with local partners including the police, health services, support agencies and the third sector** to get their involvement and buy in upfront. These partners will be crucial to ensuring that complementary elements of the approach, particularly in terms of support for street-drinkers, can be provided. Additionally, partners can also provide additional resource in terms of engaging with local businesses.

## Refine and implement scheme

- Following consultation with local stakeholders, you may wish to refine the scheme before it is formally launched.
- The first and most important step in implementing the scheme is **working with local businesses to encourage them to participate**. Outlining the potential benefits to businesses from the scheme, rather than just the wider objectives, is likely to be helpful; evidence from earlier schemes suggests that there can be significant benefits to businesses, their staff and families, as well as the wider community.
  - It is important to **recognise that different businesses take decisions in very different ways, and that this will affect how individual stores are able to respond to the proposal**. Some retailers will be able to take a local decision on whether or not they participate; others may need to seek a view from a regional or national head office. In all cases, locally focused evidence of why the scheme is being proposed will increase the likelihood of a decision to participate.

- Similarly, it is also important **to understand the different ways that supplier logistics work**. When taking decisions about what products to stock, some retailers are able to differentiate stock in different places; others cannot. This helps to explain both why it may be difficult or time-consuming for some local retailers to take decisions on certain types of products, and also why some producers are very concerned about this type of scheme.

### **The business rationale for participating in Reducing the Strength schemes**

Licensees who support the positives associated with the campaign recognise the huge benefits that can result from removing low price products from their shelves. For example:

- retailers engaged in schemes have reported dramatic drops in verbal abuse experienced by staff
  - retailers have reported a reduction in assaults on staff
  - retailers report improved community relations as disruptive customers no longer access their shops
  - retailers have reported a reduction in risk of breaching licensing conditions by not selling alcohol to drunken people
  - retailers have reported increased takings as alcohol for sale has higher profit margin
  - retailers have reported happier customers as groups of drunken individuals are no longer in vicinity of shops
  - retailers have reported a reduction in the incidence of shoplifting.
- In some schemes, face to face engagement with retailers has proved to be an effective way of encouraging them to participate in the scheme; in other places, the approach has been to send letters to different tiers of management at local companies. **The**

**approach that you take to encouraging participation may be determined by the resources available and the breadth of the scheme; however, whichever approach you choose, it is sensible to consider how it is likely to be perceived by businesses.**

### **When is a voluntary scheme not voluntary?**

Concerns have been raised by sections of the industry that supposedly voluntary schemes have involved councils or their partners trying to force or even bully businesses to participate in local Reducing the Strength schemes.

Fostering a partnership approach with local retailers in relation to these schemes should help to avoid this, but you should consider how your approach to retailers might be perceived, and potentially who is best placed to make it (council officers, police, etc), in order to avoid accusations of forcing retailers to participate.

Some retailers may believe that the risk of participating in the scheme is too great, or may simply not want to, and they are entitled to reach that decision. This should not necessarily be interpreted as meaning they are not committed to partnership working, and should not mean that they are treated differently by licensing officers or the police, unless there is evidence linking problems to specific premises that have not signed up to the scheme.

- **The formal launch of the scheme needs to be handled carefully, as this is one of the areas where it would be possible to inadvertently breach competition law.**

In broad terms, while there is no problem under competition law with having a visible brand and communications, these should only be used in the sense that they identify participants once the scheme has been formally launched. Naming or identifying individual participants before the scheme

is up and running could be deemed to be encouraging agreements between retailers by influencing the decision of others to participate in the scheme.

#### Monitor, evaluate and review scheme

- Once the scheme has been launched, the onus is on the council and its partners to support it. **Don't be afraid to get tough if problems linked to certain products persist:** there is scope to use the powers police and local authorities have, such as designated public place orders, dispersal or confiscation powers and drinking banning orders. Similarly, if a voluntary ban is not proving to be effective and there are specific problems that can be linked back to specific premises, you could add conditions to licences: Suffolk have done this in relation to a small number of premises. However, **do not apply Reducing the Strength conditions as part of a blanket approach, even if local retailers ask for this to create a level playing field: conditions should always be directly relevant to the individual premises.**
  - **Don't be afraid to alter the scheme to ensure the maximum impact.** However, in doing so, you should keep an open door: **always be prepared to discuss the issues with retailers, community members, councillors, the media and partner agencies.**
- **You should monitor progress against the key objectives and track changes to the evidence base over time.** It will be important for both the lead council, partner agencies and the public to understand the effect the scheme is having; additionally, government has indicated that it is helpful to have evidence about whether these schemes are effective.

## Checklist/summary

- identify problem
- research evidence base and confirm problem / options with partners
- evaluate options
- agree solution.

#### If solution is Reducing the Strength:

- conduct competition law self-assessment
- secure legal advice
- brief councillors
- engage industry, police and charities
- plan branding and launch event
- plan monitoring and evaluation
- launch scheme
- review scheme against milestones and metrics.



# Legal issues

## Legal considerations – competition law and the Licensing Act

### Competition law and Reducing the Strength schemes

It is highly unlikely that a council, in the context of introducing a Reducing the Strength scheme, will be deemed to be acting as an ‘undertaking’ within the meaning of the law (including the Competition Act 1998 and the corresponding articles on the Treaty of the Functioning of the European Union). Competition law only applies to ‘undertakings’, broadly defined as firms or other entities that are engaged in commercial activity. Therefore, the activities of **councils and their staff themselves, in this context, are unlikely to be caught by Competition Law specifically.**

**Local retailers, however, clearly are undertakings within the meaning of competition law. They must, therefore, ensure that they are not engaging in anti-competitive behaviour otherwise they could face significant penalties, including significant fines.** Specifically, this means that they must not engage in restrictive agreements or concerted practices, within the meaning of competition law. Since many of the retailers that councils would like to involve in local schemes may be smaller businesses that do not have detailed knowledge of competition law, councils have a duty of care to ensure that they are not asking them to breach the law and/or do not put them in a position where they might inadvertently do so. Moreover, it is possible that if a local authority encouraged or facilitated breaches of competition law, this could, in certain

circumstances, possibly lead to a breach of European Union law by that authority.

While there is a certain competition law risk to retailers arising from some aspects of Reducing the Strength schemes, the risk is manageable if councils build in certain features to their schemes. **The key point is to ensure that retailers are aware they must make individual and independent decisions about whether to participate in such schemes. Specifically they should avoid engaging in any form of co-ordinated action or in agreements or concerted practices that would reduce or prevent competition between them. In particular, retailers should avoid discussing or sharing sensitive commercial information (eg about prices, costs, volumes, future commercial strategies) with competitors.**

This risk is mostly likely to emerge at the start-up of a scheme, as you work with retailers to seek their participation, and should be considered in the design and implementation of the scheme. **The easiest way to avoid this risk is to engage bilaterally with individual retailers, rather than with groups of retailers together.** This may have other benefits, in terms of being a more effective approach in terms of engaging retailers. However, it is a resource intensive approach. If you do decide to meet with retailers jointly in the course of setting up a scheme, it would be sensible to **set out the competition law risk upfront**, including what is not permitted during the meeting (eg sharing of commercially sensitive information between competitors). You should then ensure that you:

- set out the intended approach
- set out why this is being done

- set out what the benefits to the area/ residents/businesses will be (ie the public policy message)
- offer the opportunity to ask questions
- **close down any conversation which appears to give rise to coordination** (eg a retailer indicating during the meeting, in front of its competitors, its future commercial strategy regarding high-strength alcohol).

**But do not:**

- invite people to indicate publically if they will sign up to the scheme there and then. It is acceptable to ask them to inform you privately if they will join up, but a public commitment in advance of a scheme being launched could be interpreted as collusion
- inform retailers, collectively or individually, of other businesses that have indicated they will, or might, join the scheme.

It is also **sensible to be mindful of the competition law risk when thinking about communicating the launch of the scheme**. It is fine to hold a launch event and develop branding for the scheme and once the scheme is live, you may wish to name businesses involved and provide branding and promotional materials for participating businesses to display if they wish. However, **participating businesses should not be named or advertise their participation before the scheme is formally launched. Councils should also avoid encouraging people to sign up by naming (or mentioning in bilateral discussions with retailers) other businesses which are participating or plan to participate** – retailers should be convinced to join by the public policy message only.

These actions should help to protect retailers from falling foul of competition law. It would be sensible to demonstrate, as part of a due-diligence approach, that you have considered and taken account of these issues through a simple competition law self-assessment undertaken during the design stage.

Guidance on competition issues regarding Reducing the Strength and competition law more generally is available on the CMA website<sup>5</sup>.

## Licensing conditions and Reducing the Strength schemes

If you are including a licensing approach in your scheme, you can only do what is permitted by the Licensing Act 2003. Although appropriate in individual circumstances, Reducing the Strength conditions on licences should be approached with caution and never as part of a blanket approach. Two key considerations are that:

- conditions should promote the licensing objectives.
- standard conditions should be avoided: conditions should relate to individual premises.

If these two criteria are met, then the wording of the clause should be carefully considered. It must be:

- appropriate
- proportionate
- understandable
- achievable
- enforceable
- not duplicated in other primary legislation
- **individual and tailored to the premises**
- self-contained.

<sup>5</sup> <https://www.gov.uk/government/collections/competition-and-consumer-law-compliance-guidance-for-businesses>

# Case studies



## **Suffolk – perhaps more than any other area – has led the way with tackling the consumption of high-strength, cheap alcohol.**

The campaign was launched in Ipswich in September 2012 in a partnership between Suffolk County Council, Ipswich Borough Council, Suffolk Constabulary and the East of England Co-operative Society after complaints from the public and businesses that street drinking was getting out of hand.

The scheme is three-pronged. Off licences have been asked to agree to stop selling cheap high-strength alcohol of 6.5 per cent abv and above, while the police have taken action where regular street drinking causes disturbances and the county council has invested in outreach workers to encourage drinkers into treatment.

The campaign was kick-started with a launch event for retailers at Ipswich Town Football Club where a short film was shown about the damaging effects of street drinking from an individual's and a business' point of view. The latter included such issues as loss of custom from people being put off by street drinkers congregating outside shops. This event was accompanied by media coverage and followed up by the partners visiting local businesses to discuss the benefits of supporting the campaign.

The responsible authorities have also used the licensing process to nudge retailers into taking part. When applications are approved the council visits businesses to ask them to consider signing up to the campaign outlining the benefits to the local area and potential gains for traders – although the scheme remains voluntary. The only situations where the council might impose restrictions on the sale of cheap strong alcohol are if there is evidence of sales of high-strength alcohol to drunk persons, which is an offence, and/or there is a direct link to problems in the wider area which can be attributed to such. In these cases competition law does not apply and a restriction on sale of certain products can be enforced. However, this has only been used four times.

The campaign has proved incredibly successful. Ninety out of 138 off-licence premises have signed up, including big chains like Tesco, Sainsbury's and Morrisons.

In terms of street drinking; numbers have dropped from a total of 70 individuals before the campaign was launched to just over 20. Street drinker events – defined as incidents in which the public have contacted the police – fell by nearly 25 per cent in the year after the launch of the campaign.

This success has led to the initiative being expanded to other urban areas in Suffolk, such as Lowestoft.

Public health engagement manager Simon Aalders says: "We have been delighted with how it has worked out. The most important principle is that you work together. The police have a dedicated officer for the campaign, while public health has funded two outreach workers for it. One type of intervention alone

– enforcement, restricting supply or enhanced treatment – doesn't work, for schemes to be successful all three elements must be implemented. You will need to have medium to long term commitment from all partners.”

Mr Aalders believes the effect has been more far-reaching than the initial aim of the scheme, as cheap high-strength alcohol is not just consumed by street drinkers. Sales figures from the East of England Co-operative Society, before it became involved, show in some very deprived areas sales of 6.5 per cent abv and above accounted for nearly a fifth of alcohol sales. The Co-op and other stores have observed that profits from alcohol sales have not decreased as consumers purchase different, weaker alcohol products. The premium alcohol product market remains unchanged.

He also says the campaign seems to have changed behaviour. “People haven't just switched to the next strongest brand, for example 6.4 per cent, but actually to 3 or 4 per cent abv brands.”



# Case studies



**Portsmouth is one of the UK's most densely populated areas. With more than 180 off licences in the city, people are never far from somewhere they can buy a drink.**

But the easy availability of alcohol is causing problems. Over 40,000 people – one in four adults – drink at harmful levels and alcohol-related admissions are well above the national average. Overall alcohol misuse is estimated to cost the city £74 million a year.

Like many areas, Portsmouth has tried a combination of education and sensible drinking promotion as well as using dispersal orders to tackle anti-social behaviour.

But last autumn the Safer Portsmouth Partnership decided to take a different tack by targeting the sale of high-strength alcohol.

The Reducing the Strength campaign focuses on the cheap sales of beers, lagers and ciders over 6.5 percent abv.

Retailers were initially sent questionnaires by the council officer and police officer who run the scheme. But after little response the two officers started visiting shops to discuss the plans face-to-face.

This proved more effective. Six months over half of the city's 180+ off-licences had signed up and agreed not to sell the high-strength alcohol. Some of the agreements have been made verbally, while others have agreed to have written conditions on their licences.

Exceptions are made for premium products, such as speciality ales and ciders.

Importantly, in communication with retailers, Portsmouth has been very aware of its competition law responsibilities. No confidential retailer information has been shared and it has been clear throughout that it is for the retailers themselves to determine whether or not to sign up to the scheme

Community safety project officer Rob Anderson-Weaver, who leads the project for Portsmouth City Council's Safer Portsmouth Partnership, says: "Once we got out there we found retailers were much more open to discussing the idea. We talked to them about the effect this high-strength alcohol has. It is not just the street drinking, but the health impact. These shops are part of the community and when we put it to them we found many were willing to take it on board."

To ensure that all businesses are treated equally, Portsmouth has started suggesting during the licensing process that people sign-up too. The aim now is to try to have 100 retailers signed up by the end of the year.

# Want to know more?

**Competition and Markets Authority (CMA)**

[www.gov.uk/government/publications/high-strength-alcohol-schemes-competition-law-advice](http://www.gov.uk/government/publications/high-strength-alcohol-schemes-competition-law-advice)

**Suffolk's Reducing the Strength campaign**

[www.suffolk.police.uk/safetyadvice/personalsafety/alcoholawareness/reducingthestrength.aspx](http://www.suffolk.police.uk/safetyadvice/personalsafety/alcoholawareness/reducingthestrength.aspx)

**LG Inform**

[www.local.gov.uk/about-lginform](http://www.local.gov.uk/about-lginform)

**Local alcohol profiles for England**

[www.lape.org.uk](http://www.lape.org.uk)

**Street level crime maps for England and Wales**

[www.police.uk](http://www.police.uk)

**Alcohol Strategy (published by the Home Office in 2012)**

[www.homeoffice.gov.uk/drugs/alcohol-strategy](http://www.homeoffice.gov.uk/drugs/alcohol-strategy)

**Public Health Responsibility Deal pledge relating to high-strength alcohol**

<https://responsibilitydeal.dh.gov.uk/pledges/pledge/?pl=54>

**Government guidance on 'below cost sales'**

[www.gov.uk/government/publications/banning-the-sale-of-alcohol-below-the-cost-of-duty-plus-vat](http://www.gov.uk/government/publications/banning-the-sale-of-alcohol-below-the-cost-of-duty-plus-vat)

**Local alcohol partnerships**

[www.portmangroup.org.uk/responsibility-programmes/landing\\_page/local-partnerships](http://www.portmangroup.org.uk/responsibility-programmes/landing_page/local-partnerships)

**Safer Portsmouth Partnership**

[www.saferportsmouth.org.uk](http://www.saferportsmouth.org.uk)

[reducingthestrength@hampshire.pnn.police.uk](mailto:reducingthestrength@hampshire.pnn.police.uk)



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# **GUIDANCE ON DESIGNATED PUBLIC PLACE ORDERS (DPPOs): FOR LOCAL AUTHORITIES IN ENGLAND AND WALES**



**Home Office**





# Contents

Introduction	3
Purpose of the powers	3
Byelaws	3
The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007	4
Which authority has the power to make a DPPO?	4
Partnership working	4
The DPPO process	5
1) Evidence	5
2) Consultation	5
3) Publicity	6
4) Once an order is made	7
Timescales	7
Time lapses	7
Displacement	8
Extending a DPPO area	8
Borough-wide DPPOs	8
Managing objections	8
Evaluating DPPOs	8
Revocation of a DPPO	9
Portsmouth – an example of good practice	9
Enforcement	9
Breaches	10
Signs	10
Replacement signs – wording	11
Wording of a DPPO	11
Other alcohol powers	11
Future legislative changes	11

FAQs	11
List of DPPO areas	12
Contact details	12
Legislative provisions	13
Annexes	14
Annexes A–D: Wording for notices	14
Annex E: Portsmouth case study	18
Annex F: Sample leaflet	21

## Introduction

This guide explains the powers given to local authorities in England and Wales to introduce Designated Public Place Orders (DPPOs). The provisions are contained in section 13 of the Criminal Justice and Police Act 2001 and section 26 of the Violent Crime Reduction Act 2006.

The purpose of this guide is to help you get the best out of DPPOs. If your local area has found its own effective system for using this power, then there is no need to consider making changes. Our aim is to ensure good practice from practitioners. The examples we give are merely suggestions that you may wish to try in your local area, particularly if DPPOs are new to you. We are not looking to replace existing local protocols.

This guidance is therefore not compulsory. It merely sets out examples of good practice which you may wish to follow in your local area. Legislative obligations mentioned here are, naturally, compulsory, and we have highlighted all references for your convenience.

## Purpose of the powers

On 1 September 2001, sections 12–16 of the Criminal Justice and Police Act 2001 came into force. DPPO powers enable local authorities to designate places where restrictions on public drinking apply. However, they can only be used in areas that have experienced alcohol-related disorder or nuisance.

These powers are not intended to disrupt peaceful activities, for example families having a picnic in a park or on the beach with a glass of wine. While police officers have the discretion to require an individual to refrain from drinking regardless of behaviour, our advice is that it is not appropriate to challenge an individual consuming alcohol where that individual is not causing a problem. Bodies responsible for introducing and enforcing DPPOs must keep in mind section 13 of the Criminal Justice and Police Act 2001 which makes it clear that this power is to be used explicitly for addressing nuisance or annoyance associated with the consumption of alcohol in a public place.

It is important to note that these powers **do not** make it a criminal offence to consume alcohol within a designated area. An offence is committed if the individual refuses to comply with a constable's request to **refrain from drinking**. Those enforcing these powers must take care that they do not state (either verbally or via signage) that the consumption of alcohol in a designated area, in itself, constitutes a criminal offence.

## Byelaws

By virtue of section 15 of the Criminal Justice and Police Act 2001, existing public drinking byelaws cease to have effect once an area is designated in accordance with section 13 of the 2001 Act. Any relevant local authority byelaw which was not replaced by a section 13 Designation Order has therefore lapsed by virtue of section 15 of the 2001 Act. Drinking byelaws that were not replaced by a DPPO ceased to have effect on 31 August 2006.



## The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007

Section 13 of the Criminal Justice and Police Act 2001 enabled local authorities to introduce Designated Public Place Orders (DPPO). The 2001 Act also ensured that pubs and clubs that have a premises licence to sell and supply alcohol under the Licensing Act 2003 could not be designated by a DPPO.

The Licensing Act 2003 brought the licensing arrangements for a range of activities under the same regime. So premises licensed for the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshments hold the same, single authorisation. The Licensing Act 2003 Statutory Guidance also encourages local authorities to seek premises licences for public spaces in order to allow local community events such as open-air festivals, concerts and carnivals to take place without the need for each individual event organiser having to apply for a separate licence. This allows these various events to operate within the terms of licence.

An unintended consequence of this was that, where local authorities were granted a premises licence in respect of public spaces in order to hold regulated entertainment (and in some cases allow the sale of alcohol at certain times) these places could not be designated with a DPPO. This conflicted with local authority wishes to promote community events by licensing public spaces, while also intending to make use of DPPOs in tackling anti-social behaviour drinking.

This unintended problem was rectified by section 26 of the Violent Crime Reduction Act 2006, which came into force on 6 April 2007 amending the 2001 Act, to ensure that premises used by local authorities in this way will only be excluded from a DPPO in which they are located at times when alcohol is actually being sold/supplied and for 30 minutes thereafter. The 2006 Act also ensures that a premises for which a Temporary Event Notice (TEN) permits the supply of alcohol will also be excluded from a DPPO in which it is located for 30 minutes following the supply of alcohol, rather than 20 minutes as was previously the case.

## Which authority has the power to make a DPPO?

The local authorities with the power to make a designation order under section 13 are:

- in England, unitary authorities and district councils so far as they are not unitary authorities; and
- in Wales, county councils or county borough councils.

In this context unitary authorities are defined as county councils (so far as they are councils for an area for which there are no district councils), district councils (in areas for which there are no county councils), London borough councils, the common council of the City of London (in its capacity as a local authority) and the council of the Isles of Scilly.

## Partnership working

As with any decision to introduce a particular power to tackle anti-social behaviour in a local area, it is essential that you work with the relevant agencies within the Crime & Disorder Reduction Partnership (CDRP) – such as the police – from the start of the DPPO process. In particular, this is to ensure that when the order comes into force, the DPPO is monitored and the police have the resources to be able to enforce it.

# The DPPPO process

## 1. Evidence

The evidence you will require for a DPPPO is that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. You should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition, you must have a belief that the problem could be remedied by the use of these powers. Evidence should be based not just on information you have obtained, but also from the police and members of the local community who have reported incidents of alcohol-related anti-social behaviour or disorder.

Evidence of alcohol-related nuisance could for example include litter related to the consumption of alcohol (e.g. bottles and cans) as well as police information and residents' complaints.

## 2. Consultation

Before making an order you should consult with the chief officer of police overseeing the area in question. This is to seek the police's views on the nature of the problem and the appropriateness of adopting the powers. It is also in recognition that it will be the police who will have the responsibility for enforcing the resulting restrictions on public drinking.

You should also consult the following:

- the parish or community council covering all or part of the public place to be designated;
- the neighbouring police and local authorities, parish or community councils in cases where a designation order covers an area on the boundaries with that neighbouring authority. This is in order to assess the consequences of the designation order on the neighbouring authority (such as the possible displacement of anti-social public drinking problems) before the designation order is made; and
- any premises licence holder, club premises certificate holder or premises user (as appropriate), in relation to each premises in that place which may be affected by the designation. These are premises where:
  - (i) a premises licence granted under part 3 of the 2003 Act has effect;
  - (ii) a club premises certificate granted under part 4 of the 2003 Act has effect; or
  - (iii) a temporary event notice has been given so that premises may be used for a permitted temporary activity by virtue of part 5 of the 2003 Act.

You should also take reasonable steps to consult the owners or occupiers of the land proposed to be designated. Where residential areas are proposed to be included in the DPPPO area, you should endeavour to consult with residents of those areas. Some councils have notified the local residents by means of a leaflet drop. You may also wish to consider holding residents' meetings. Some have carried out surveys of their residents and businesses to gauge their opinion on the proposal to introduce a DPPPO and to identify any experience of alcohol-related anti-social behaviour or disorder. These data can add to the evidence base required before a DPPPO is introduced.

When you consult any of the parties above, you should describe in writing the effect the order will have at particular times in relation to each category of premises (set out in section 3 (3) (b) of the 2007 Regulations) listed below:

- Premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol (section 14(1)(a) of the Criminal Justice and Police Act 2001 (“the 2001 Act”) but where section 14 (1B) of that Act does not apply). This provision covers licensed premises at all times of the day.
- Premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol but only at times when it is being used for the sale or supply of alcohol or at times falling within 30 minutes after the end of a period during which it has been so used (section 14(1)(a) of the 2001 Act where section 14 (1B) of that Act does apply). This provision covers licensed premises during the times of operation of the licence and 30 minutes thereafter – so for example they are not covered at times that they are licensed to sell or supply alcohol.
- Premises in respect of which a club premises certificate has effect which certifies that the premises may be used by the club for the sale or supply of alcohol (section 14(1)(aa) of the 2001 Act). This provision covers clubs that have club premises certificates.
- A place within the curtilage of licensed premises or club premises (section 14 (1B) of the 2001 Act). This provision covers any place within the enclosed area of licensed premises or club premises.
- Premises which by virtue of Part 5 of the Licensing Act 2003 may for the time being be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the last 30 minutes (section 14(1)(c) of the 2001 Act). This provision covers any premises for which there is a valid temporary event notice in force and for 30 minutes thereafter.
- A place where facilities or activities relating to the sale or consumption of alcohol are for the time being permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (section 14(1)(e) of the 2001 Act). This covers places in which the council has given permission for alcohol to be sold pursuant to section 115E of the Highways Act 1980.

### **3. Publicity**

Before making an order, you should publish a notice in the local newspaper:

- identifying specifically or by description the place in question; setting out the effect the order will have on that place, particularly as regards certain times in relation to each category specified in section 3 (3) (b) of the 2007 Regulations;
- identifying any premises to which section 14 (1B) of the Act applies at the time the notice is published; and
- inviting representations as to whether or not an order should be made.

No order should be made until at least 28 days after the publication of the notice. Some local authorities have published the notice in a council publication that is delivered to all residences and businesses within the local authority boundaries. We believe this is an example of good practice as such a newsletter will most likely cover a larger proportion of the population. However, any publications in newsletters of this sort must be in addition to the notice in a local newspaper as this is a legal requirement.

## 4. Once an order is made

After making an order and before it takes effect, you should publish a further notice in the same local newspaper:

- identifying the place to which the order refers;
- setting out the effect the order will have on that place, particularly as regards certain times in relation to each category specified in section 3 (3) (b) of the 2007 Regulations;
- identifying any premises to which section 14 (1B) of the Act applies at the time the order takes effect; and
- indicating the date on which the order will take effect.

You should send a copy of the DPPO as soon as possible after the order is made to the following address:

Joanne French  
Home Office  
Alcohol Strategy Unit  
4th Floor  
Peel Building  
2 Marsham Street  
London  
SW1P 4DF

Telephone number: 020 7035 0066

The Home Office will send you an acknowledgement to confirm receipt of the DPPO order. If you don't receive an acknowledgement within two weeks of sending your paperwork to the Home Office you should contact the Alcohol Strategy Unit to confirm whether or not it has been received.

## Timescales

In respect of the length of time allowed for the consultation process, it is for you to decide what constitutes a reasonable consultation period. This might depend on how many premises licence holders and neighbouring local authorities may be affected by the proposed DPPO area. However, our advice is that a period of 4 to 6 weeks gives residents and others a fair opportunity to make representations.

The only statutory requirement in the regulations is that no order can be made until at least 28 days after the notice has been circulated in the local press. There are no other statutory timescales. However, you must consider what, in your view, is both fair and reasonable in terms of timescales for all other aspects of the DPPO process.

## Time lapses

If you find that a significant amount of time has elapsed since you first consulted about introducing a DPPO, we would advise you to go back to the initial results of the consultation and review whether there is likely to have been any changes in your local area which might have had an effect on your decision to implement a DPPO.

You will need to:

- look at why the DPPO was not implemented at the time (was it due to resource issues or were there any valid objections?);



- assess whether any circumstances are different now, compared to when the consultation took place;
- revisit the evidence to see if the DPPO is still justified; and
- consider whether any objections are more valid now as compared to when the consultation took place.

## Displacement

The creation of designated areas may well lead to anti-social drinking or nuisance being displaced into areas that have not been designated for this purpose. So, prior to designating an area, you should make an assessment of all the areas to where you reasonably believe that the nuisance or disorder could be displaced, ensuring that all those affected by the designation and possible displacement are appropriately consulted. It might be appropriate for you to designate a public area beyond that which is experiencing the immediate problems caused by anti-social drinking if the evidence suggests that the existing problem is likely to be displaced once the DPPO is in place.

## Extending a DPPO area

In order to extend the area of a DPPO, a new order has to be produced. This is to ensure that the extended area is just and reasonable. The consultation and publicity processes will need to be re-visited for the new area.

## Borough-wide DPPOs

Borough-wide DPPOs are not specifically prohibited in the legislation; however, we would advise caution, as, in order for the DPPO to be proportionate, you need to ensure that there is evidence of alcohol-related anti-social behaviour in each and every part of the borough. Any local authority considering a borough-wide DPPO will need to satisfy themselves that they can justify their decision by pointing to evidence of alcohol-related nuisance or annoyance in each and every part of their borough.

## Managing objections

Any objections to a DPPO should be properly considered. Questions that you might wish to consider include:

- does the person/people making an objection have a valid reason?
- does further evidence of alcohol-related anti-social behaviour need to be obtained?

Objections to a DPPO will not necessarily result in its rejection. However, all objections should be thoroughly considered. It would be good practice for you to send a letter to the person objecting, explaining why their objection has been accepted/rejected. In cases where there have been a number of objections on the same or similar points, you may wish to explain more publicly the reasons for continuing with the DPPO. This could be through residents' meetings or an article in a council newsletter.

## Evaluating DPPOs

There is no statutory requirement to review a DPPO. However, we would advise that they should be evaluated and reviewed as a matter of good practice. How often a DPPO should be evaluated is a decision for you to make. It would be good practice to review the DPPO at least every two years. The aim of an evaluation is to find out whether the DPPO has stopped/helped to reduce alcohol-related anti-social behaviour/disorder. If it has, is the DPPO still required? Does the area covered by the DPPO need to be reviewed?

The evaluation need not be a lengthy bureaucratic exercise. The policy leads responsible for implementing the DPPO would be advised to review the data on alcohol-related anti-social behaviour before the DPPO was in force, and compare it with more recent data, along with information from the police as to how often the DPPO has been enforced. A judgement can then be made as to the effectiveness of the DPPO in dealing with alcohol-related anti-social behaviour.

As part of the consultation with the police when a DPPO is originally being proposed, it is advisable that local authorities should make their own local agreement with the police about how data will be collected and/or disseminated on how often the DPPO powers are used. This will enable you to have the relevant information available when reviewing the effectiveness of the DPPO.

If it is judged that the DPPO has not proved effective at reducing alcohol-related anti-social behaviour, you will need to identify the reasons behind this before deciding on the next steps. It might be that the problems have been displaced, in which case you may wish to think about extending the area of the DPPO. Alternatively, it might be that the DPPO is not being enforced, in which case you will need to discuss with the police what steps can be taken to address this issue.

## Revocation of a DPPO

Under section 13 (3) of the Criminal Justice and Police Act 2001, local authorities have the power to revoke a DPPO. However, the same processes of consultation and publicity will need to be observed when any revocation is being considered. Any local authority which revokes a DPPO must send a notice to the Home Office (at the address above) informing them that a DPPO has been revoked.

### Portsmouth – an example of good practice

When Portsmouth Council decided to introduce a DPPO, they agreed a protocol with the police to provide guidance for both the public and the police as to how the DPPO would be enforced. The police and the local authority agreed that individuals with alcohol would not be approached and asked to stop drinking unless 1) they were engaged in anti-social behaviour or disorder; 2) the police were of the view that there was likely to be anti-social behaviour or disorder; or 3) complaints had been received from other members of the public. This approach allowed Portsmouth to target those individuals causing nuisance related to the consumption of alcohol while leaving undisturbed those who were not causing a nuisance.

The guidance from Portsmouth highlighted the importance of not alienating the public by challenging individuals not engaged in anti-social behaviour, and that the use of the power was a discretionary one on behalf of the police, and not a duty to challenge any individual with alcohol. The guidance produced by Portsmouth Council can be found at Annex E and is also available on the Crime Reduction website.

## Enforcement

Section 12 of the Criminal Justice and Police Act 2001 provides the police with powers to deal with anti-social drinking in areas that have been designated for this purpose by the relevant local authority under section 13 of the Act. The police (and other accredited persons, under sections 41 and 42 and schedule 5 to the Police Reform Act) have the power to require a person in a DPPO area not to drink alcohol in that area where an officer reasonably believes that the person has, or intends to do so. In addition an officer has the power to ask that person to surrender the alcohol and any opened or sealed containers in their possession.

As Police Community Support Officers (PCSOs) and other accredited persons do not have the power of arrest in these circumstances, a police officer will need to be called if someone fails to comply with the request to refrain from drinking. It is not an offence to drink alcohol in a designated public place, but failure to comply with an officer's requirements in respect of public drinking or the surrender of alcohol without reasonable excuse is an arrestable offence.

Penalties for this offence include:

- penalty Notice for Disorder (PND) £50; or
- arrest and prosecution for a level 2 fine, maximum of £500.

Bail conditions can be used to stop the individual from drinking in the public place pending prosecution for the offence.

Accreditation of PCSOs and others is at the discretion of the Chief Constable of the police force concerned.

## Breaches

There is no power to arrest someone who regularly consumes alcohol in a designated public place **unless** they fail to comply with an officer's request to stop when asked under section 12 of the Criminal Justice and Police Act 2001. However, the police can use a whole range of other powers to deal with regular public/street drinkers either by giving them a PND for being drunk or disorderly or by using Acceptable Behaviour Contracts (ABCs) and Anti-Social Behaviour Orders (ASBOs). Directions to Leave under Section 27 of the Violent Crime Reduction Act 2006 could also be used for up to 48 hours if appropriate.

## Signs

It is for you to decide on how many signs are required to draw the public's attention to the effect of an order in a particular place. You may also wish to consider any specific local requirements when producing the signs such as having the wording of the sign in other languages. This will obviously be dependent on budgetary constraints.

Signs should not conflict with or obscure traffic signs – you should consult with the local highway authority. They should be placed at the approaches to designated areas and repeated within them.

We suggest avoiding the use of diagonal lines through bottles or glasses on signs as they may suggest some sort of prohibition or ban on alcohol itself. Signs should not suggest that the consumption of alcohol is a criminal offence.

Each sign erected should also indicate the effect the order will have at particular times in relation to each category specified in section 3 (3) (b) of the 2007 Regulations:

- premises falling under section 14 (1) (a) of the 2001 Act (places which are not designated public places) to which section 14 (1) (b) of the 2001 Act does not apply;
- premises falling under section 14 (1) (a) of the 2001 Act to which section 14 (1) (b) of the 2001 Act does apply;
- premises falling under section 14 (1) (aa) of the 2001 Act;
- premises falling under section 14 (1) (b) of the 2001 Act;

- premises falling under section 14 (1) (c) of the 2001 Act; and
- premises falling under section 14 (1) (e) of the 2001 Act.

A model sign can be found at Annex A.

## Replacement signs – wording

If you are considering replacing a sign erected under the 2001 regulations, the wording **does not** need to reflect the amendments made in the 2007 Regulations.

## Wording of a DPPPO

The legal title is a Designated Public Place Order (DPPPO). DPPPOs are sometimes misleadingly referred to as Alcohol Free Zones, Drinking Control Areas and Drinking/Alcohol Ban Areas. This can be confusing to members of the public as the purpose of the legislation is not to ban alcohol in a public area, but to give police the powers to deal with anti-social drinking. You will need to take this into account when producing signs/literature for your DPPPO. An example of good practice is a leaflet produced by Ipswich Borough Council (on the Crime Reduction website and reproduced at Annex F).

## Other alcohol powers

There are a number of other powers that are available to deal with alcohol-related issues including the confiscation powers available under the Confiscation of Alcohol (Young Persons) Act 1997, Alcohol Disorder Zones, Directions to Leave and Dispersal Orders.

As there are a large number of powers available, you must consider which is the best suited to address any specific issues in your area. A guidance document is available which lists all of the alcohol powers: *A Practical Guide for Dealing with Alcohol Related Problems; What you need to know*. This document can be downloaded from the Crime Reduction website, or a hard copy is available from the address previously on p.7.

## Future legislative changes

On 4 March 2008 the Culture Secretary announced that the maximum fine for breach of a DPPPO would be increased to £2,500. No timescale for this has yet been announced.

There will also be further provisions relating to alcohol powers in the forthcoming Policing and Crime Bill. Information on the new provisions will be available on the Crime Reduction website in due course.

## FAQs

**Q** Can local authorities introduce blanket restrictions on alcohol consumption or create Alcohol Free Zones?

**A** There are no provisions in the Criminal Justice and Police Act 2001 which allow the creation of Alcohol Free Zones or blanket restrictions of drinking in public. Before an area is proposed for designation, you must obtain some evidence that the area has alcohol-related anti-social behaviour or disorder associated with it. Any proposals for a comprehensive ban on public drinking would be considered disproportionate to the intended measures in the 2001 Act.



**Q** Does a DPPO lead to a universal ban on drinking in the open?

**A** No. Section 13 of the Criminal Justice and Police Act 2001 allows local authorities to designate public areas for the purposes of section 12 of the Act where they are satisfied that nuisance, annoyance or disorder have been associated with public drinking in that area. A universal ban on drinking in public would be considered disproportionate, and a DPPO should not be introduced for this purpose.

**Q** Can DPPOs be used for non-alcohol-related anti-social behaviour or disorder?

**A** No. DPPOs should only be used to tackle alcohol-related anti-social behaviour or disorder. Local agencies should consider using other anti-social tools and powers provided, for example Dispersal Orders, ASBOs and ABCs to tackle non-alcohol-related anti-social behaviour or disorder.

**Q** Are DPPOs indefinite?

**A** No. Like section 30 Dispersal Orders they can be reviewed while the order is in place. DPPOs can and should be revoked if they are no longer required.

## List of DPPO areas

An alphabetical list of DPPO areas can be found on the Crime Reduction website:  
[www.crimereduction.homeoffice.gov.uk/alcoholorders/alcoholorders09.htm](http://www.crimereduction.homeoffice.gov.uk/alcoholorders/alcoholorders09.htm)

## Contact details for local authorities in relation to DPPOs

Home Office contacts

Joanne French

Tel: 020 7035 0066

E-mail: [Joanne.French@homeoffice.gsi.gov.uk](mailto:Joanne.French@homeoffice.gsi.gov.uk)

Emma Lawrence

Tel: 020 7035 4671

E-mail: [Emma.Lawrence8@homeoffice.gsi.gov.uk](mailto:Emma.Lawrence8@homeoffice.gsi.gov.uk)

## Legislative provisions

### **Premises that are not designated as public places – Section 14 of the Criminal Justice and Police Act 2001, as amended by the Violent Crime Reduction Act 2006**

- (1) A place is not a designated public place or a part of such a place if it is –
  - (a) premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol;
  - (aa) premises in respect of which a club premises certificate has effect which certifies that the premises may be used by the club for the sale or supply of alcohol;
  - (b) a place within the curtilage of premises within paragraph (a) or (aa);
  - (c) premises which by virtue of Part 5 of the Licensing Act 2003 may for the time being be used for the supply of alcohol which, by virtue of that Part, could have been so used within the last [30] minutes;
  - (e) a place where facilities or activities relating to the sale or consumption of alcohol are for the time being permitted by virtue of permission granted under section 115E of the Highways Act 1980 (c66) (highway related uses).
- (1A) Subsection (1B) applies to premises falling within subsection (1) (a) if –
  - (a) the premises is held by a local authority in whose area the premises or part of the premises is situated; or
  - (b) the premises license is held by another person but the premises are occupied by such an authority or are managed by or on behalf of such an authority.
- (1B) Subsection (1) prevents premises to which this subsection applies from being, or being part of a designated place only –
  - (a) at times when it is being used for the sale or supply of alcohol; and
  - (b) at times falling within 30 minutes after the end of a period during which it has been so used.
- (1C) “Premises Licence” and “Club Premises Certificate” have the same meaning as in the Licensing Act 2003.

## Annex A

### Model sign

**This area has been designated under the  
Local Authorities (Alcohol Consumption in Designated Public Places)  
Regulations 2007**



If you continue to drink alcohol in this area designated under section 13 of the Criminal Justice and Police Act 2001 when asked not to do so by a police officer or any other person designated to carry out this task under sections 41 and 42 of the Police Reform Act 2002, or fail to surrender any alcohol to a police officer in this area, you may be arrested and would be liable on conviction to a

**Maximum fine of £500**

- Each sign erected should also indicate the effect the order will have at particular times in relation to each category of premises specified in section 3 (3) (b) of the 2007 Regulations – please see Section 2 (Consultation).

## Annex B

### **NOTICE TO PRESS – PROPOSED AREA TO BE IDENTIFIED (PRE MAKING AN ORDER)**

**Name of Local Authority**

**Local Authorities (Alcohol Consumption in Designated Public Places)**

**Regulations 2007**

NOTICE IS HEREBY GIVEN THAT **(Name of Local Authority)** in exercise of its powers under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 proposes to make an order identifying the places detailed in the schedule below.

The Order allows a constable and other accredited persons under section 41, section 42 and schedule 5 to the Police Reform Act to require a person, in a designated place, not to drink alcohol in that place if the officer reasonably believes that a person has consumed or intends to do so, and to surrender the alcohol and any opened or sealed containers in the person's possession. Any person who fails without reasonable excuse to comply with a constable's request under this provision may commit an offence and be liable to prosecution.

**[need to set out the effect the order will have at particular times in relation to each category of premises specified in regulation 3 (3) (b) – please see DPPO Process Section 2 – Consultation]**

If you wish to make representations about the proposed Order you should send them in writing to the undersigned by **(enclose date)**

#### **SCHEDULE**

##### **LAND DESIGNATED BY DESCRIPTION**

**[Insert Details of the place to be identified]**

**[Insert Name]**

**[Insert Name and Address of Local Authority]**

**[Insert Date]**



## Annex C

### **NOTICE TO PRESS – AREA IDENTIFIED IN THE ORDER**

#### **Name of Local Authority**

#### **Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007**

NOTICE IS HEREBY GIVEN THAT (**Name of Local Authority**) in exercise of its powers under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 has made an order which shall come into effect on the (**insert date**) identifying places detailed in the schedule below as designated public places pursuant to the Criminal Justice and Police Act 2001 (as amended by the Violent Crime Reduction Act 2006).

The Order allows a police officer, police community support officer (where accredited under section 41, section 42 and schedule 5 to the Police Reform Act) and people accredited through a community safety accreditation scheme to control the consumption of alcohol within designated public places. If they believe that someone is consuming alcohol or intends to consume alcohol they can require them to stop or they can confiscate the alcohol.

Any person who fails without reasonable excuse to comply with an officer's request under this provision may commit an offence and may be issued with a penalty notice for disorder or may be liable to prosecution.

**[need to set out the effect the order will have at particular times in relation to each category of premises specified in regulation 3 (3) (b) – please see DPPO Process Section 2 – Consultation]**

#### **SCHEDULE**

#### **LAND DESIGNATED BY DESCRIPTION**

**[Insert Details of the place which has been identified in the Order]**

**[Insert Name]**

**[Insert Name and Address of Local Authority]**

**[Insert Date]**

# Annex D

## SAMPLE – DESIGNATED PUBLIC PLACES ORDER

[Insert name of Council]

CRIMINAL JUSTICE AND POLICE ACT 2001

ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES [Insert name and number of Order]

The Council of [Insert name] (in this Order called “the Council”) hereby makes the following Order under Section 13(2) of the above Act:

1. The land described in the Schedule below and or shown on the map attached to this Order, being a public place in the area of the Council which is a public space in which the consumption of alcohol has been associated with disorder, nuisance or annoyance to member of the public or a section of the public, is hereby designated for the purposes of section 13 (2) of the above Act
2. This Order may be cited as Alcohol Consumption in Designated Public Places for the area of.....Order (No....) 2008 and shall come in to force on (*insert date*)

## SCHEDULE

**List of roads/areas etc**

Dated this .....day of .....2008

The Common seal of the ..... **Council**  
was hereunto fixed in the presence of (seal)

## Annex E

### EXAMPLE OF GOOD PRACTICE GUIDANCE TO POLICE AND OTHERS ENFORCING THE DPPO

**Hampshire Constabulary**  
**Portsmouth Basic Command Unit**  
**Designated Public Places Order**  
**Enforcement Guidance**

#### 1. About this Guidance

Hampshire Constabulary is committed to working in partnership with Portsmouth City Council in supporting the Safer Portsmouth Partnership to deliver the Crime and Disorder Strategy. Key areas of the strategy are to reduce alcohol-related violent crime, disorder and anti-social behaviour and in doing so create a safer Portsmouth where residents and visitors feel reassured.

This guidance is primarily aimed at all operational police staff and other personnel within Portsmouth City boundary who are, or who may be in the future, authorised to stop members of the public consuming alcohol in public places.

It explains how Portsmouth BCU will approach the enforcement of legislation which governs Alcohol Consumption in Designated Public Places. The whole of Portsmouth City has, from 15 August 2005, been designated.

#### 2. General Principles

##### Discretion

Discretion will be used in the exercise of the new powers which will be carefully monitored to ensure that they are being used appropriately.

Circumstances likely to warrant the use of these powers are where:

- There is current anti social behaviour or disorder
- There is a high likelihood of anti social behaviour or disorder
- Complaints have been received from members of the public concerning an on going or developing problem which may lead to the above

Anti-social behaviour is defined as any behaviour which causes or is likely to cause harassment, alarm or distress.

##### Street Drinkers

It has been agreed by partners that 'street drinkers' are informed about the new law by outreach workers. They are also being provided with information on treatment services. Officers should use sound judgement when dealing with individuals who are thought to be alcoholics or who may have mental health issues. They should deal with any person in this category in line with Force policy and base any use of the power on the above criteria.

### Legislation

The legislation that governs the consumption of alcohol in public places, is provided by, Section 12 of the Criminal Justice and Police Act 2001 as amended by section 199 and schedule 7 of the Licensing Act 2003. (PNLD Ref H3882 and D9612/3/4)

The order covers all public places within Portsmouth City. **It does not cover private enclosed shopping precincts such as Cascades but does cover Gunwharf. It does not apply to licensed premises including outside drinking areas which form part of a licensed premises.**

Section 12(1) states that if a constable reasonably believes that a person is, or has been, consuming intoxicating liquor in a designated public place or intends to consume intoxicating liquor in such a place.

Section 12(2) The constable **MAY** require the person, not to consume within that place and surrender anything in his possession that the constable reasonably believes to be intoxicating liquor or a container for such liquor.

Section 12(3) A constable may dispose of anything surrendered to him under (2) above in a manner that he considers appropriate. The containers can be either sealed or unsealed, although it is anticipated that it would be rare to seize sealed containers from a compliant person.

**Section 12(4) If a person fails to comply with the above requirement, they commit an offence.**

Section 12(5) A constable who imposes a requirement under (2) above will inform the person that failure to comply, without reasonable excuse, with the requirement is an offence.

**If an individual fails to comply with the request then they can be arrested, it is an arrestable offence.**

EXAMPLE OF REQUEST TO STOP DRINKING:

“This is a designated public place in which I have reason to believe that you are/have been drinking intoxicating liquor. I require you to stop drinking and give me the container from which you are/have been drinking and any other containers (sealed or unsealed). I must inform you that failure to comply with my request, without reasonable excuse, is an offence for which you can be arrested.”

**IT IS NOT AN OFFENCE TO CONSUME ALCOHOL IN A PUBLIC PLACE UNLESS A PERSON HAS BEEN PROPERLY DIRECTED TO STOP.**

### Fixed Penalty

Where an offence has been committed it can be dealt with by way of a Penalty Notice for Disorder (PND) with the relevant fine being £50. It is important to remember that this PND can only be issued to offenders 16 years and over, the PND can also be issued on the street.

## 3. Implementation

**Portsmouth City Council has erected signs which promote responsible drinking and inform the public that the area is subject to drinking control. The signs will be clearly visible on the approaches to the City and in areas likely to be most affected by alcohol-related incidents.**

As stated above, the object of this order and policy is to prevent crime and disorder and the powers available can be used at the officer's **discretion**. It is **important not to alienate the public**. **For example, it would be inappropriate to challenge individuals consuming alcohol whilst enjoying a quiet picnic on the beach or in one of the city parks.**



This legislation does not affect the placing of tables and chairs outside licensed premises to allow consumption within that seating area, provided that they are properly licensed. Any incidents arising from the consumption of alcohol in these circumstances should be dealt with under the Licensing Act. If non urgent, such matters should be referred to the Licensing Departments of Portsmouth BCU and/or Portsmouth City Council. In urgent cases the advice of the Duty Inspector should be sought.

This order does not affect the power of the Police to seize and retain alcohol from young persons under the Confiscation of Alcohol (young persons) Act 1997.

### **Disposal of Alcohol**

Officers should dispose of alcoholic drinks according to the existing procedures followed in respect of the Confiscation of Alcohol (Young Persons) Act 1997. A compliant adult would normally be asked to pour the alcoholic contents from any open container in their possession. Any debris should be disposed of by placing in the nearest bin. It would be rare to take possession of sealed containers from an adult in these circumstances unless there was a reasonable belief that the person will continue to drink in a public place.

Where a person is non-compliant an officer may find it necessary to seize the alcohol from a person and pour it away. An offence would have been committed in these circumstances and consideration should be given at that point to what penalty measures should be taken. In the event of an arrest being made, where practicable, unopened containers should be retained and shown to the custody officer and then discarded. No receipt will be given but a brief description of what has been seized will be recorded on the C12.

Officers should continue to exercise discretion in the finalising of such a case. Final disposal of the matter could result in no further action/informal warning, PND on the street, arrest with PND or summons/charge disposal. In any case **a C12 stop and account form MUST be completed**. The ASB and seizure of alcohol boxes should be ticked and blue copy forwarded to CSU at KF.

## **4. Impact of this Guidance**

### **Consultation**

Prior to the drinking control order being made, extensive public consultation took place. Portsmouth City Council members, community groups, licensees and trade bodies all supported its introduction.

### **Equality**

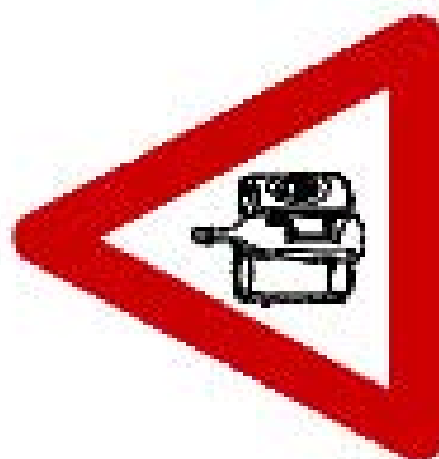
The use of these powers by the police in these circumstances has been assessed to have a risk of affecting race or other community relations. This will be under continual review and based upon public feedback and the monitoring of stop and account records.

### **Monitoring**

Along with our partners the Constabulary will continue to seek feedback from all sections of the community to ensure that these powers are being used appropriately. Police Officers and PCSOs are required to fill in a C12 stop and account form when exercising this power.

## Annex F

# designated public place



Drink responsibly  
or the police could use  
their powers to take  
away your alcohol  
and fine you

Ipswich Borough Council is promoting responsible drinking to people who live, work or visit the town. As part of this campaign, the Council has introduced a Designated Public Places Order which will be effective from 1st December 2007.

### What is responsible drinking?

Over 95% of the adult population drink and the majority do so without any problems, the majority of the time. Drinking alcohol is widely associated with socialising, relaxing and pleasure. Drinking within the recommended limits can even provide some health benefits.

The Government's Recommended Safe Drinking limits are:

- a maximum intake of 2-3 units per day for women and 3-4 for men, with two alcohol-free days after heavy drinking; continued alcohol consumption at the upper limit is not advised;

- that intake of up to two units a day can have a protective effect against heart disease for men over 40 and post-menopausal women and some groups such as pregnant women and those engaging in potentially dangerous activities (such as operating heavy machinery) should abstain from drinking at all.

Continued heavy drinking or binge drinking can cause problems for an individual's health. Where drinking is associated with criminality or anti-social behaviour, it has an impact on the individual, their family and the whole community.

### What is a Designated Public Place?

The Criminal Justice and Police Act 2001 introduced the power for local authorities to designate public places in which it will become an offence to drink alcohol after being requested not to do so by a police officer. The police will have the power to require the surrender of alcohol and containers in these circumstances and those who fail to comply will be liable to arrest. The restriction for such a ban is a Designated Public Place Order.

### What are the benefits of such an order?

The key aims for Ipswich are to:

- provide additional powers to police to deal with persistent alcohol drinking and alcohol related anti-social behaviour;
- reduce disturbances in public places which are alcohol related;
- reduce disturbances in public places;
- contribute to the range of actions which are being delivered to reduce alcohol misuse;

- reduce the numbers of street drinkers and loitering areas through providing enforcement with outreach services.

### How a DPPO affects you

This means that from December 2020 a Police Officer or a Police Community Support Officer may ask you to stop drinking in a public place if:

- you are causing disorder or behaving in an anti-social manner (like drinking alcohol or under the influence of alcohol);
- there is a likelihood of anti-social behaviour or disorder (like drinking or under the influence of alcohol);
- complaints have been received from the public concerning an existing or developing problem.

**This order will not affect you if you are drinking responsibly in a public place**

## Helpful numbers

### National Alcohol Helpline

0800 017 8282

Confidential advice and information to all aspects of alcohol. Calls are free.

### Alcoholics Anonymous National Helpline

0800 709 7000

Calls charged at local rate.

### Alcoholics Anonymous

01470 258202

Open seven days and alcohol services.

### Anti-Social Behaviour

0800 120 0270

Free phone – reporting anti-social behaviour.

### Bullock Downville Violence & Abuse

0800 700 0121

24hr Helpline

### National Domestic Violence Helpline

0800 2000307

### 411

0800 210 0200

Information and support for young people.

### Crime Stoppers

0800 005 111

Call anonymously with information about a crime.

### Domestic Violence

0800 700 00 00

Confidential non-judgemental emotional support.



**What will happen if I do not stop drinking alcohol?**

If you continue to drink when asked not to your alcohol may be confiscated and disposed of by the officer.

**What if I support my alcohol?**

If you support your alcohol and do not continue to behave in an anti-social manner there will be no further action.

**Will I be given a criminal record?**

You may be arrested and considered for a maximum fine of £500 or issued with a fixed penalty notice.

**What will happen if I do not stop my alcohol but continue to behave in an anti-social manner?**

You may be arrested and considered of a Public Order offence.

**Our aim is to ensure that responsibly businesses and visitors are able to enjoy the benefits of the vibrant lifestyle community. This should be without risk or fear of any nuisance or disorder caused by the behaviour of a few people introduced by alcohol in public.**









