Your Licence Your Responsibilities
Guidance for licensees in Devon, Cornwall and the Isles of Scilly

This booklet is an advisory document and we recommend you seek legal advice at all times.

Building safer communities together
This booklet is intended for guidance alone, it is not intended as, nor should it be treated as legal advice in any way. Licensees are reminded that they should seek independent legal advice in relation to their rights and obligations.

Devon and Cornwall Constabulary do not accept any responsibility for the contents or any omissions within this booklet. The booklet is not intended to reflect policy of the Constabulary at the time of writing or in the future. Where any of the contents are taken as reflecting the Constabulary’s policy in approaching the licensing objectives, the Constabulary reserves the right to depart from such policy, be it expressed or implied.

At all times licensees are advised to contact their local Licensing Officer in relation to the Constabulary’s viewpoint on any particular issue. This booklet is not intended to be a comprehensive statement of the law or policy.
Introduction by Stephen Otter, Chief Constable of Devon and Cornwall Constabulary

As Chief Constable I am committed to ensuring that Devon and Cornwall Constabulary builds safer communities in Devon and Cornwall and provides the best possible policing service.

An important part of this commitment is to reduce the levels of crime and disorder associated with licensed premises and to provide active supervision of such premises.

We are committed to working in partnership with licensed premises to ensure that they are aware of the principles of good management and abide by them. Where co-operation is not forthcoming we will enforce compliance with existing legislation by working in partnership with local authorities and other responsible agencies. It is in this area that we need and require the support of the licensing trade.

This booklet is being provided to all licensed premises in Devon, Cornwall and the Isles of Scilly. I hope it will provide you with useful guidance on how to operate responsibly and within the licensing laws. It also describes what we expect of you and your staff in providing a professional and responsible service to the public. The information provided should assist and support you in your day-to-day role as licensees and outlines how we can, in partnership, reduce alcohol related crime and disorder and improve the quality of life within our communities.

Stephen Otter
Chief Constable
Your licence

You have been granted a licence to either sell alcohol or be responsible for the sale of alcohol at a venue or event. This licence is a valuable and essential asset of your business. It should be treated as a privilege and safeguarded accordingly.

The licence is granted by the Licensing Authority and regulated by the Licensing Act 2003.

The guidance detailed in this booklet will hopefully give you some advice on how to operate within the licensing laws and what is expected of you and your staff.
Activities requiring a licence

There are four activities detailed in the Licensing Act 2003 which require a licence.

• The sale by retail of alcohol.
• The provision of regulated entertainment.
• The provision of hot food between the hours of 11pm and 5am (late night refreshment).
• The supply of alcohol to members of a club.

Your licence will detail what activities you are lawfully allowed to undertake in relation to the activities above, if your activities differ from what is registered for your licence you must obtain either, a revised licence, or a Temporary Event Notice (TEN).

Failure to do this would mean you are breaking the law and could be prosecuted.

There are four types of licences, which can be obtained:

• Premises Licence
• Personal Licence
• Club Premises Certificate/Licence (CPC) – members’/social club, etc
• Temporary Event Notice (TEN)

If your establishment holds a Premises Licence allowing the sale of alcohol, then you will also have a Personal Licence holder assigned as the Designated Premises Supervisor (DPS).

If you decide to change or differ the activities happening at your establishment temporarily, then you need to apply for a TEN.

If your activities will be permanently changed then you will need to apply to vary your Premises Licence.
Types of Licences

1. Premises Licence

A Premises Licence will be issued to premises and will specify the activities it allows and the times they can take place on the premises. Each Premises Licence is individual and sets out the conditions under which the premises can be operated and hours permitted for those activities.

If you have a Premises Licence please take time to familiarise yourself with your licence conditions as operating in breach of your licence constitutes an offence punishable with a fine of up to £20,000 and/or six months imprisonment.

2. Personal Licence

Any person can hold a Personal Licence.

All sales of alcohol must, by law, be made or authorised by a person who holds a Personal Licence.

Each Premises Licence, which authorises the sale of alcohol, will have a Personal Licence holder called the Designated Premises Supervisor (DPS). This person is the single point of contact for that licence and would be considered to have the supervisory capacity for the premises by the responsible authorities.

If there is no DPS, because they leave the employment or sell the premises, there can be no sale of alcohol until the situation is rectified.
3. Club Premises Certificate/Licence (CPC)

A non-profit making club, where membership allows individuals the privilege of participation in its activities, can be issued with Club Premises Certificate (CPC). This allows clubs to carry out licensable activities for the benefit of its members only.

4. Temporary Event Notice (TEN)

If no Premises Licence is in force or the existing licence does not allow a certain activity, a ‘one off’ event can still take place under the authority of a Temporary Event Notice (TEN).

In a calendar year these notices are limited to 12 in any one place totalling no more than 15 days. They can last for up to 96 hours and are limited to a total attendance of 499 people.

The Licensing Authority and police must be served with notice for a TEN stating the intention to hold a licensable activity, at least 10 working days before the event.

If the police consider that the occurrence of the event would undermine the crime and disorder objective then objections will be lodged with the Licensing Authority, who may hear evidence from both yourself and the police, and may decide not to grant the TEN.

A Personal Licence holder can be issued up to 50 of these notices a year and a non-Personal Licence holder can have five.

A TEN is generally issued to private individuals and charities etc. so they can hold their own events.

For the duration of the TEN the venue will be considered as relevant premises with regards to offences under the Licensing Act 2003.
Objectives to be achieved as part of your licence

There are four licensing objectives, which must be taken into account when the Licensing Act 2003 is being considered. Your licence has been granted on the basis these will be fulfilled.

At all times, in your premises or at an event, you must be responsible for the following:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

As part of your licence conditions you are expected to detail how you are going to address these issues and it is essential you implement these actions.

Your licence will be reviewed if you are not adhering to these objectives and it may be revoked.

The issuing authority for all licences under the Licensing Act 2003 is known as the Licensing Authority and is generally the council for the area in which the premises is situated. The Licensing Authority must establish a Licensing Committee of between 10 and 15 members, who then sub-divide into committees of three. The sub-committees then preside over all matters relating to licensing issues.
Compliance with your licence

There are several responsible authorities that will ensure you comply with the Act, these include:

- Devon and Cornwall Constabulary
- Devon and Somerset Fire Authority and Cornwall Fire Authority
- Departments within Devon County Council, Cornwall County Council, Torbay Council and Plymouth City Council:
  - Health and Safety
  - Planning
  - Environmental Health
  - Child Protection
  - Trading Standards

These authorities also have the ability to ask for a licence to be reviewed if they feel that it is not being operated in observance of the objectives.

All district councils are also licensing authorities and can enforce restrictions, but can not ask for a license to be reviewed.

Updating your licence

Transferring a Premises Licence and varying the DPS

When a premises changes hands, and you are the Premises License holder, the license must be transferred and the DPS changed, if this individual no longer works there.

Application for these changes should be made to the Licensing Authority and can be applied either to take immediate effect, or on a specific date of completion.

In order for an applicant to become a DPS they must have held a Personal Licence before the application is made. There is no interim measure available.

The only person that can object to an application for transfer or variation of a DPS is the Chief Constable, if they feel that granting the application would undermine the crime and disorder licensing objective. If this were to happen, the application would then be put to the Licensing Committee where each party would put their case and a decision made.
Monitoring and enforcing your licence

Police rights of entry/inspection and enforcement

As a licence holder you should be aware that the police and authorised officers have a legal right of entry to licensed premises, either to prevent, or to detect breaches of the Licensing Act 2003.

When premises subject of a Premises Licence or TEN are open, or about to be open, for the provision of licensable activities a police officer or authorised officer may enter to check that those activities are carried out in accordance with the permission in force.

This power does not extend to premises operating under a CPC.

A police officer also has a right to enter and search any premises where there is reason to believe that an offence under the Licensing Act 2003 is, or is about to be committed.

Any person who fails to admit a police officer or authorised officer when they request entry under these powers is committing an offence.

Juvenile test purchasing

There is an ongoing problem with young people obtaining alcohol. If information is received that a particular premises is selling alcohol to persons under the age of 18 years then the premises may become the subject of an operation where test purchasing is used.

There is a legal exemption allowing trading standards or police officers to send a person under the age of 18 into licensed premises to attempt to purchase alcohol without committing an offence.

Following a positive sale, consideration will be given to the prosecution of the seller as well as the Personal Licence holder. The premises licence may also become the subject of a review, should the police consider it appropriate to make such an application.
Closure of premises

There are various powers of closure under the Licensing Act 2003 relating to licensed premises.

The first relates to an area where it reasonably believed that there is, or will be, alcohol related disorder at a particular time in a specific geographical area. This decision can only be determined by a police officer of the rank of Superintendent or above. An application can then be made to the Magistrates’ Court to close all the premises in that area for the specified period of time.

This would primarily be used where forward planning and information suggests there may be an area of concern such as football matches or planned demonstrations.

The second may occur where an officer of the rank of Inspector or above feels that there is, or is likely to be, disorder occurring at, or in the vicinity of an individual premises, and closure of those premises is the only way to maintain public order or safety. The notice is valid for a period 24 hours and premises may not reopen until that period has passed. Following the issue of a notice the officer must then appear before the Magistrates’ Court for them to consider the order.

The Act requires that:
“...In determining whether to make a closure order in respect of any premises, the senior police officer must have regard, in particular, to the conduct of each appropriate person in relation to the disorder of nuisance..."
Betting, gaming and lotteries

Introducing betting, gaming and lotteries in your premises/event/club may be in breach of your licence and you may require an additional licence from the Gambling Commission.

Betting

It is illegal to allow the passing of betting slips to bookmakers or their agents on licensed premises. This can only take place on premises where an Operating Licence under the Gambling Act 2005 exists.

Gaming and gaming machines

Certain forms of equal chance gaming are permitted to be played in licensed premises, for example bingo, bridge, dominoes and cribbage.

Some forms of poker are allowed to be played but for limited stakes.

Gaming machines are also regulated by the Act. All licensed premises are entitled to provide two machines of either class C or D without the need for a permit or licence.

If more machines than this are required, then a Licensed Premises Gaming Machine Permit will be needed and all the statutory conditions will need to be complied with.

Your gaming machine supplier should be able to advise you of the category of machine and permit requirements.
Lotteries

In general the promotion and facilitating of a lottery without an Operating Licence is an offence under the Gambling Act 2005. However, there are some exemptions for:

- incidental non-commercial lotteries
- private lotteries
- customer lotteries
- small society lotteries

If you are planning a lottery or draw as part of any event at your premises you must ensure that it fits the criteria for one of these exemptions or apply for the relevant licence.

Race and casino nights

The legality of these nights is complex and their operation is dependent on a number of factors relating to their promotion, organisation and the use of the proceeds.

As a general principle they are normally to be operated on non-commercial grounds with no individual making a profit from the event.

It is recommended that further legal advice is sought regarding any matters of betting, gaming and lotteries that you may consider and how they affect your premises, as the legislation related to these areas is complex and highly restrictive.
Managing alcohol related crime and antisocial behaviour

Alcohol related crime on licensed premises

Licence holders and their staff are entitled to refuse to admit or to serve anyone who is drunk and can request that the person leaves the premises.

There is an obligation on licence holders and persons working in licensed premises (whether paid or unpaid) not to permit excessive drinking, violent or antisocial behaviour on licensed premises.

You, as the licence holder or DPS, and your staff are open to prosecution if any alcohol is sold or supplied to someone who is already drunk. Proving that reasonable steps had been taken for preventing drunkenness on the premises lies with you and your staff.

Devon and Cornwall Constabulary expect licence holders and their staff to take the appropriate action to ensure that the premises are managed effectively and the legal objectives are met.

How to deal with drunken behaviour and violence

We would recommend that you firstly ask the person to leave. This is important and must not be overlooked.

After someone has been asked to leave, but has not left, the licence holder or their staff may use reasonable force to evict the individual.

Devon and Cornwall Constabulary would not advocate putting yourself, or staff, in a position where there is potential for personal harm. Your safety is paramount, if you feel your personal safety or that of your staff and other customers is at risk please call 999.

Any member of your staff acting as a door supervisor must be correctly registered with the Security Industry Authority (SIA) and will have received training with regards to their rights and responsibilities regarding eviction of persons from your premises.
Whilst licence holders have a duty to prevent such behaviour it is, of course, open to them to request the assistance of Devon and Cornwall Constabulary if the circumstances demand it and the police will duly assist.

A licence holder’s responsibility does not end at the door of their premises. Violence and disorder, on and immediately outside, licensed premises are often closely linked with customers who have consumed alcohol and the licence holder can be held accountable.

When a person is refused because of having drunk excessively, the police should be informed so that appropriate action can be taken to prevent further trouble.

Prevention of crime and disorder should be a major concern for you as it is one of the four licensing objectives.

You should be aware that if you have to call the police under these circumstances, it will not be seen by the authorities as a ‘black mark’, as long as you have taken due precautions in preventing the behaviour.

**Exclusion Orders**

Any person convicted of an offence on licensed premises involving violence, or the threat of violence, may be banned from entry to those premises, together with others under an Exclusion Order.

This Order will be issued by a Magistrates’ Court and can be for a period of between three months and two years.

A breach by the named offenders is a further offence and should be reported to the police.

It is the responsibility of the licence holder or their staff to take positive action before calling the police. The police, if requested, will assist.
**Other legislation**

You should be aware that other legislation impinges upon the rights and responsibilities of licensees. This legislation is civil in nature and any application issued by the police will be heard before the Magistrates Court.

- **Unauthorised Licensable Activity**
  
  Under the Criminal Justice and Police Act 2001, the police can apply for the closure of premises, if unauthorised licensable activity takes place on a premises, and there is a failure to rectify this once a notices has been issued.

- **Antisocial behaviour**
  
  Under section 118 of the Criminal Justice and Immigration Act 2008, the premises can be closed as a result of serious and persistent nuisance and antisocial behaviour.

- **Drink Banning Orders**
  
  The Violent Crime and Reduction Act 2006, provides for court sanctions if individuals subject to Drink Banning Orders are found on licensed premises they are prohibited from.

**Issue of photographs of person/persons excluded**

There is no obligation on the police to issue licence holders with photographs of person/persons subject to Exclusion Orders or Drink Banning Orders.

Devon and Cornwall Constabulary has agreed to circulate photographs of person/persons provided they fall within the parameters of guidelines set out by the law.

Requests for photographs or further information should, in the first instance, be directed to your local Licensing Officer.

In cases where photographs are issued they must not be displayed or shown publicly, and are for the information of the licence holder and their staff only.
Door supervisors

Door supervisors on licensed premises must be registered with the Security Industry Authority (SIA). They must display their badge at all times when they are working.

If you allow any person to work on your premises who is not registered or is not in possession of their badge you are committing a criminal offence.

Further advice regarding registration can be obtained from the SIA www.the-sia.org.uk

Drinking and driving

There are still a minority of people who take the risk by drinking and driving. The police seek the co-operation of all licensees to reduce the number of people drinking and driving.

Licensees should be encouraging customers not to drink alcohol and drive.

There is a wide range of low and non-alcoholic drinks in addition to soft drinks, tea, coffee etc. to assist with influencing customers’ choices. Advertising and promotion of these types of drink should be prominently displayed; also they should be competitively priced and readily available.

It is crucial that you and your staff know the difference and the effects between alcohol free beer and low alcohol beer.

As a licence holder you may often be asked by your customers what is the safe drink/drive limit. There is no definitive answer as much depends on body size and shape, and the way the body copes with the intake of alcohol. Therefore the only safe answer to give your customers is not drink any alcohol if they intend to drive.

As far as Personal Licence holders are concerned the police and Magistrates’ Courts take a very strong line in relation to a licensee convicted of a drink/driving offence. This could result in the revocation of their licence.
Alcohol and young people

The law

It is an offence for anyone working or assisting in licensed premises or a Club Premises Certificate (whether paid or unpaid) to:

- sell or supply alcohol to a person under 18 years
- knowingly allow any person to sell or supply alcohol to a person under 18 years
- knowingly allow a person under 18 years to consume alcohol on the premises
- knowingly deliver alcohol to a person under 18 years for consumption off the premises
- knowingly allow any person to deliver alcohol to a person under 18 years for consumption off the premises

To prevent the offences above being committed the licence holder or employee must have the authority to prevent the incident.

Informing your staff

Anyone selling alcohol must be told the following:

It is an offence for a person under 18 years to:

- buy/supply, or attempt to buy/supply, alcohol in relevant premises
- consume alcohol on relevant premises

The law and proxy sales of alcohol to under 18s

It is an offence for any person to:

- buy/supply, or attempt to buy/supply, alcohol on behalf of a person under 18 years
- buy/supply, or attempt to buy/supply, alcohol for consumption in relevant premises by a person under 18 years
- knowingly send a person under 18 years into a licensed premises for the purpose of obtaining alcohol sold or supplied, for consumption off the premises.
Trading Standards – test purchasing

The only exemption from the regulations detailed over the page, is if a young person is actively involved with the sale/supply of alcohol as part of a test purchasing operation initiated by a trading standards department and/or the police. Further information about test purchasing can be found on page 11.

Sales by a person under 18 years

It is an offence for a person under the age of 18 years to sell/supply alcohol unless:

- the sale/supply has been specifically approved by the DPS or Premises Licence holder or a person aged over 18 years has authorised it;
- the sale/supply is an accompaniment to a table meal being consumed in a separate area set aside for that purpose.

Under 18’s on licensed premises

Persons under the age of 18 years are permitted on licensed premises. If a licensed premises is exclusively or primarily being used for the sale of alcohol for consumption on the premises then any person under the age of 16 years must be accompanied by an individual who is 18 years or over. This also applies to any premises between the hours of midnight and 5am.

Young people consuming alcohol with food

It is not an offence for a young person aged between 16 and 18 years old to consume beer, wine or cider at a table during a meal. A person who is over 18 years old must accompany them and that person must purchase the alcoholic drinks.
Alcoholic confectionery

It is illegal to knowingly sell alcoholic confectionery to young people under 16 years. Any person who contravenes this will be liable.

Examples of alcoholic confectionery include liqueur chocolates.

Proxy sales

It is an offence for any person aged 18 years or over to purchase alcohol on behalf a person under 18 years. As such you and your staff have a duty to refuse service to any individual whom you suspect may be committing this offence.

Persons drunk while in charge of a child

A person who is found drunk in a public place, whether licensed premises or not, who is responsible for a child under the age of seven years, is committing an offence.

This may be particularly relevant to licensed premises. If action to ensure the child welfare is not taken then licence holders and their staff could be liable for aiding and abetting this offence.
Drugs

Drugs on licensed premises

As a licence holder you need to be aware of the possibility that drugs may be supplied and used on your premises.

If drug activity becomes prevalent on your premises, generally criminal activity increases and the premises loses its regular and law-abiding customers.

Licence holders who permit drug related offences to take place on their premises face heavy penalties, and a conviction may well result in a review and possibly loss of their licence.

If you have any suspicion, no matter how small, that your premises are being used by drug dealers and users then seek advice from the police. Early reporting of your suspicions will not be viewed as detrimental to your licence by the police, but will help with reducing drug offences.

If you have specific problems relating to drugs please contact your Licensing Officer.

As a licensee you should ensure:

- your staff are trained to know what to look for
- maintain good supervision and vigilance over your premises
- maintain high standards of cleanliness and décor within your premises to deter drug dealers and users
- attend police drug presentations and establish a good relationship with your Licensing Officer

Proactive drug operations

The police regularly carry out proactive drugs operations centred around licensed premises. These may include the use of passive drugs dogs in premises and portable testing equipment.

For more information about drugs visit www.homeoffice.gov.uk/drugs or speak to your Licensing Officer.
Preventing crime

As a licensee, you have a duty of care to your customers and you should ensure their safety whilst they are on your premises.

**Stolen property**

Licence holders should be vigilant for the exchange and disposal of stolen goods by customers in their premises.

If you suspect stolen property is being exchanged you must contact the police immediately.

In the meantime try and observe the behaviour of the individuals concerned taking note of the type of goods and the description of the persons involved, if not known to you.

Remember also that a car number plate is always helpful to the police if the persons have left the premises before they arrive.

**Scene preservation**

In the event that a serious crime has taken place, on or near to your premises, it is essential that you make every effort to preserve the scene of the crime, preferably untouched, until the arrival of the police and to secure any evidence.

For example if a violent assault takes place using a weapon e.g. broken bottle or knife, then it would assist the police in their investigation if the scene and weapon remained untouched.

However licence holders and their staff should not place themselves in jeopardy or risk injury.

Where the premises have the benefit of a Closed Circuit Television System (CCTV), filmed evidence should be retained and handed to the police carrying out any investigation immediately.
**CCTV**

The installation of a CCTV system can be extremely beneficial and a valuable tool in the prevention and detection of crime and disorder on licensed premises.

There is a DVD detailing all information relating to CCTV. If you would like a copy ask your local Licensing Officer.

**General security in licensed premises**

- Ensure that your cash registers cannot be operated from the customers’ side of the bar. All till drawers should be emptied and the cash removed immediately after each session. The drawers should be left open after being emptied.

- Anchor charity boxes securely to the bar counter in full view of you and your customers.

- Site cigarette dispensing machines, jukeboxes, pool tables etc. in your view to reduce misuse, theft and vandalism.

- Periodic checks should be made of the gaming machine cabinets to ensure that it has not been tampered with. An alarm system would be beneficial and they should be emptied regularly.

- Stocks of wine, spirits and cigarettes should be kept in a secure store within the premises and should be alarmed. You, or a trusted member of staff, should be the only person to have access to this store. Use mortise locks or padlock to secure doors.

- Consider the security of your safe.

- Ensure that your premises are properly secured at all times. External doors, all windows, cellar flaps, yard gates and doors to outbuildings should be kept locked whenever there is no immediate need for them to be open.

- Burglar alarms are an excellent back up.
Residential accommodation

- Ensure the public does not have access to your residential accommodation.

- Where possible, private living accommodation should also be protected by the alarm system. Consider having a personal attack button.

Car park security

Good lighting in all areas of the car park will have a deterrent effect. CCTV cameras are recommended as they are a proven deterrent.
Training your staff

It is recommended that you keep signed written records of all training undertaken with your staff and carry out regular reviews and refreshers with them.

Training should consist of:

• basic licensing law including
  - age related sales
  - preventing drunkenness
  - preventing crime and disorder
  - their legal responsibilities

• the conditions of your Premises Licence.

If you, as a Personal Licence holder, are authorising non-Personal Licence holders to sell alcohol then it is recommended that this authorisation is also written and signed by both you and your staff member.
All information contained in this booklet was correct at the time of publication.
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