

## Appendix 2

### Summary of Consultation Responses to the Draft Licensing Policy.

Respondent	Response	Licensing Authority comments	Change draft policy?
1.Councillor	Paragraph 14.6 starts off by referring solely to applications for garages and then says they must show that the premises is not primarily used as a garage. This sounds contradictory	The terms are taken directly from the Act and Guidance, however, 14.6 will be reworded - see 2 (below)	Yes
2. Licensing Solicitor	Concerned about 14.6. States the Licensing Act 2003 does not 'require' an applicant to prove primary use and so this part of proposed policy could be unlawful. Suggests that if representations are made against the grant of a licence and the concern relates to the primary use of the premises, the Licensing Authority may consider it appropriate for a condition to be agreed/imposed whereby the licence holder must, on request, provide data that establishes the primary use.	<p>The intention of this paragraph is to assist the committee in deciding applications and applicants in making them. We accept that the Act does not require this but would expect an applicant to show their premises is not primarily a garage.</p> <p>Following advice from the Council's legal team, and in light of comments 1 &amp; 2, 14.6 has been reworded as follows:</p> <p>"In determining applications for garages, (ie forecourt shops) the Licensing Authority must decide whether or not premises are primarily used as a garage and will expect applicants to submit data which establishes the primary use. Where such information is not available (because for example the premises have only just started trading), we may consider imposing a condition requiring this information to be provided to the Licensing Authority on a regular basis for the following years to ensure the premises are not primarily a garage"</p>	Yes
3.Councillor	Would like to see the Cumulative Impact Strategy for the town centre reintroduced. Believes this would be a useful tool when considering licence applications and help	The previous policy was removed because the Police stated (in a written consultation response) that it was no longer required and that they prefer to tailor policies to individual premises. The Police have put their support behind the purple	No

	<p>prevent saturating the area with clubs, pubs, and the like.</p>	<p>flag application citing continuing falls in alcohol related crime and disorder in evidence of the area being a safer place than it was during the 'CI years'. The Section 182 Guidance says that "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". There is no evidence either in the consultation responses or in our records to indicate this could be supported.</p>	
<p>4. Licensing Committee, meeting</p>	<p>Following a presentation from the Team Manager, Regulatory Services, the Committee considered and discussed the draft policy in detail, including the merits or otherwise of a cumulative impact policy. The Committee considered and discussed the draft policy in detail, including the evidential requirements to justify a cumulative impact policy. There was currently no evidence before the Committee for it to recommend the introduction of a cumulative impact policy at this time.</p> <p>Resolved: That Cabinet be informed that the Committee supports the proposed draft Licensing Policy 2015-2019, subject to the inclusion of amendment to paragraph 14.6</p>	<p>No additional comments.</p>	<p>No</p>

5. Local Off Licence	<p>Welcomes the additional information on the crossovers between planning and licensing.</p> <p>Would like to see a complete ban on the sale of alcohol in Petrol Station Forecourt Shops</p>	<p>The Licensing Authority does not have the power to ban the sale of alcohol in Petrol Station Forecourt Shops. The Act at Section 176 covers scenario's where the licence would cease to have effect and guidance is provided in section 14 of the proposed policy.</p>	No
6. Local Off Licence	Letter in favour of the policy in its original form.	No additional comments.	No
7. Environmental Health & Environmental Protection - The Responsible Authorities for Public Safety and Public Nuisance.(Health & Safety and Noise)	<p>Suggest new paragraph should be added at 6.3 which states "The Licensing Authority will work collaboratively with other regulators to assist those regulated by more than one regulator. Where the law allows, the Licensing Authority will secure mechanisms to share information such regulators about businesses and other bodies regulated to help target resource and activities and minimise duplication. "</p> <p>9.7 Suggest removal of the term 'ample' with respect to taxi ranks – this cannot be defined</p> <p>Suggest removal of reference to the Police powers which are not under the direct control of the Licensing Authority</p> <p>In relation to nuisance it is difficult to judge an application fully when no reference is made to whether an event occurs externally or not. We suggest this could be covered in 12.3 as follows: " To assist</p>	<p>The accords with "The Regulators code" issued by the Department for Business, Innovation and Skills and should form part of the policy.</p> <p>Agree – Term removed.</p> <p>Agree – details of Police powers removed.</p> <p>If this assists both businesses and the responsible authority it would be acceptable to include it. However the wording will be slightly amended as follows:-          " To assist businesses to only supply information once applicants <i>are</i> asked to provide details of whether</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	businesses to only supply information once applicants will be asked to provide details of whether the licensable activity is within the exterior of the premises itself where this information is not already required to be provided”.	the licensable activity is within the exterior of the premises itself where this information is not already required to be provided”.	
8.Essex Police. Responsible Authority	<p>At 6.2 suggest the exchange of information can be shared with Statutory partners under the Crime and Disorder Act 1998</p> <p>Question the situation over Designated Public Place Orders and their abolition under the Anti-social Behaviour, Crime and Policing Act 2014</p> <p>There is no mention of the Licensing Committee being kept apprised of the Community Safety Partnership (CSP) Strategy or the Local Strategic Partnership (LSP) (9.9) where as there is for local employment, local tourist economy reports.</p> <p>Section 11. Would like the authority to consider the inclusion of the use of legal substances being used for Illegal purposes (commonly known as legal highs)</p> <p>11.3 Question if there is scope to include the need to risk assess the use of Polycarbonate over toughened glass in applicant guidance.</p>	<p>This information will add clarity and the suggestion is accepted.</p> <p>The Anti-social Behaviour, Crime and Policing Act 2014 removes these areas in 3 years time but will replace them with Public Spaces Protection Order. The Licensing Act allows for ‘limited’ reviews to change points such as these without the need for full consultation</p> <p>The responsible authorities, and in particular the police have the opportunity to appraise the committee of community safety and LSP matters via representation should it be appropriate (and would be more qualified to do so than licensing officers). That said officers would update the committee on any appropriate matter regardless of it not being stated as part of the policy.</p> <p>A Government review on this is on-going the outcome of which would guide any future policy review. This can be reviewed once more clarity is provided by that review.</p> <p>The policy already includes the provision of toughened material which was generally taken to include polycarbonate. However if this is unclear to the police it is likely to be unclear to applicants and the</p>	<p>Yes</p> <p>No</p> <p>No</p> <p>No</p> <p>Yes</p>

	<p>Suggests that proxy sales of alcohol to underage persons should be include at 13.6</p> <p>Suggest that 15.3 needs to draw attention to the fact that hearings, where personal data may be revealed, may include the presence of the media</p> <p>At 16.4 would like it stated that a sub-committee have the right to alter conditions which have been pre-agreed prior to the hearing.</p> <p>Suggest that the Licensing Authority instructs Responsible Authorities to follow “The Practical Guide For Preventing And Dealing With Alcohol Related Problems - What You Need To Know” including the use of the relevant route map.</p>	<p>policy is amended to include advice on risk assessment. (also reworded at 10.3)</p> <p>Agree – updated</p> <p>This information will add clarity and the suggestion is accepted.</p> <p>The Committee have a multitude of options when making a decision on an application. These are detailed in the Act, the guidance and Regulation. While it is correct that the committee may change an agreed decision, based on evidence heard on the day, it is not necessary to list this as a policy item.</p> <p>The Licensing Authority cannot prescribe how Responsible Authorities act in considering an application but can draw their attention to relevant documentation. A new section referencing this guide is added at 18.4.</p>	<p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p>
9. Trading Standards. Responsible Authority	Suggests that proxy sales of alcohol to underage persons should be include at 13.6	Agree – updated	Yes