

Licensing Act 2003

Statement of Licensing Policy

2018 to 2023

Safe, Sensible and Social:
A City with Cultural Vibrancy

APPENDIX 3

Licensed Premises Drugs Protocol

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Introduction

Everyone in the community has a part to play in tackling the supply of controlled drugs and psychoactive substances and the harm these substances cause to individuals, their families and the wider community.

Licensees and operators trading/working in the night time economy have a particular role to play in this respect and they are under a duty to promote the four Licensing Objectives:

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

Unfortunately, licensed premises (premises which have the benefit of a premises licence, club premises certificate or other permission under the Licensing Act 2003 (the 2003 Act) authorising the supply of alcohol and/or late night refreshment) may at times encounter an issue involving the supply and/or use of controlled drugs and psychoactive substances on their licensed premises. Such issues may arise, despite the best efforts of licensees, operators and their staff/contractors, as a result of the supply and/or use of controlled drugs and psychoactive substances on or near to the premises by patrons and/or staff/contactors

Licensees and the Designated Premises Supervisor (where the premises licence/club premises certificate authorises the supply of alcohol) should not hesitate to take robust and positive action to prevent drug use/supply on their licensed premises. Licensees should implement a **zero tolerance approach** to drug use/supply on their premises and ensure that there are clear policies in place at all times to enable staff and contractors to identify and to tackle drug use/supply by any person on the premises.

All Staff and contractors should be familiar with the drugs policy of the licensed premises and receive regular training to enable staff/contractors to take a robust and zero tolerance approach to drug use/supply. Staff and

contractors working at licensed premises should know how to deal with any incidents involving drugs and what action they should and are expected to take.

The purpose and application of the Licensed Premises Drugs Protocol

The Licensed Premises Drugs Protocol (the protocol) has been devised by Northumbria Police to assist licensees, operators, and their staff and contractors, to take a zero tolerance approach to drug use/supply on or near to licensed premises, and to provide guidance to those working in the night time economy as to the action they should take if they seize/ find drugs on the premises, or they suspect or discover that drugs are being used/supplied on or near to the licensed premises.

Northumbria Police and the other Responsible Authorities expect licensees and operators trading/working in the night time economy of Newcastle upon Tyne to adopt and implement the protocol (or their own drugs policy which conforms to the Licensed Premises Drugs Protocol and has been approved by Northumbria Police and the Licensing Authority of Newcastle upon Tyne) and to ensure that their staff and contractors are familiar with the drugs protocol.

The protocol confirms the expectation of Northumbria Police and the other Responsible Authorities to the approach those working on licensed premises should take in relation to the supply/use of drugs on or near to the licensed premises. The protocol also confirms when and how licensees, operators, and their staff/contractors should contact the police to report an incident concerning the use/supply of drugs, and what action the police will take when a report is made.

The protocol covers all licensed premises, their grounds and outbuildings.

Drugs covered by the Protocol

The Policy seeks to assist licensees, operators, and their staff/contractors to identify and tackle the use and supply of 'controlled drugs' and 'psychoactive substances' on or near to licensed premises.

Controlled Drug

"*controlled drug*" is defined in section 2 of the Misuse of Drugs Act 1971 (the 1971 Act) and means any substance or product for the time being specified in:

- Part I (Class A Drugs), II (Class B Drugs) or III (Class C Drugs) of Schedule 2 of the 1971 Act.
- a temporary class drug order invoked by the Home Secretary for a drug (not already controlled under the Act) subject to temporary control due to its likely misuse and capability of causing harmful effects.

This protocol does not contain a list of every controlled drug specified in Schedule 2 of the 1971 Act. Some of the most commonly known and used controlled drugs are however listed below in order to assist licensees, operators, and their staff/contractors:

Class A Drugs

Cocaine, Crack Cocaine, Heroin, Ecstasy (MDMA) and LSD

Class B Drugs

Includes Cannabis, Cannabis Resin, Amphetamine, Mephedrone, (MKat, Bubble), Ketamine and Synthetic Cannabinoids (formerly part of the Psychoactive Substances Act 2016)

Class C Drugs

Includes prescribed drugs which may be abused, for example Benzodiazepines (Valium, Temazepam, Diazepam), prescribed Steroids or performance and imaging enhancing steroids or Growth Hormone. GHB/GBL (liquid ecstasy – used as a date rape drug) are also Class C.

The Protocol also deals with prescribed controlled drugs held without prescription thus without lawful authority (e.g. methadone or other opiate based medication, benzodiazepines) and medicines (both prescription and over the counter drugs).

Psychoactive Substances

Under the Psychoactive Substances Act 2016 (the 2016 Act) it is unlawful to produce, supply or offer to supply a psychoactive substance.

“psychoactive substance” is defined in section 2 of the 2016 Act and means any substance which—

(a) is capable of producing a psychoactive effect in a person who consumes it, and;

(b) is not an exempted substance (exempted substances are listed in Schedule 1 to the 2016 Act and includes, amongst other things, controlled drugs under the Misuse of Drugs Act 1971, alcohol, caffeine and nicotine and tobacco products).

A substance produces a psychoactive effect in a person if, by stimulating or depressing the person's central nervous system, it affects the person's mental functioning or emotional state; and references to a substance's psychoactive effects are to be read accordingly.

A person consumes a substance if the person causes or allows the substance, or fumes given off by the substance, to enter the person's body in any way.

The Role of the Police

Northumbria Police works with and supports agencies which come across drug users as part of their work. The police are committed to working with licensed premises and other relevant agencies to develop and implement drug policies, protocols and procedures that help them handle drug related incidents in a manner that is consistent with the law and promotes harm minimisation and access to support.

Contacting the Police to report a drug seizure:

- A. Non-emergency** – Contact the Neighbourhood Beat Teams via the Licensing Coordinator by emailing central.npt.drugs@northumbria.pnn.police.uk where the amount of drugs seized or recovered is believed to be for the persons own use.

An officer of the Neighbourhood Beat team will attend licensed premises to collect suspected controlled drugs or psychoactive substances seized or found on licensed premises (the seizure and the process for the storage and collection of controlled drugs and psychoactive substances is discussed in more detail below).

Neighbourhood Beat Managers and teams primarily work day and evening shifts. Messages can be left at other times, for individual officers. If you wish to set up a meeting with one of the members of the local team, you can find up-to-date information on who is in your local Neighbourhood Beat Team by visiting the Your Neighbourhood section of the Northumbria Police web site or by emailing newcastlecentral.npt@northumbria.pnn.police.uk

- B. Emergency** - Contact the Emergency Response Teams - call 999 if there is any danger, risk to life, possession of drugs where the quantity of drugs seized suggests more than personal use, or a crime is in progress such as the supply of drugs on licensed premises.

Emergency response teams will make an incident report and make sure that the incident is dealt with within the appropriate timescale.

Where the police receive a report that drugs have been seized from a patron/staff member or have been found on the licensed premises, or that drugs are being used/supplied on or near to the licensed premises, the police will:

- Attend the premises to respond to licensed premises request for assistance, for both:
 - Emergency – 999 calls
 - Collection of suspected controlled drug and psychoactive substances, non-emergency incident.
- Inspect the Drug Incident and Substance Management Form and collect any bagged drugs/substances. The police will retain (where necessary for forensic examination and/or evidential purposes) and safely dispose of any substance suspected or found to be or to contain a controlled drug or a psychoactive substance.
- Undertake any criminal investigative action the police consider to be necessary (i.e. arrest/invite for voluntary interview a person suspected of committing an offence, take witness statements from staff and patrons, review the CCTV footage held by the licensed premises and incident books, etc.).
- Provide the licensed premises with feedback on Police action (if necessary).
- Update police records.

Searches

Door Supervisors have no legal power to search a person. A search of a person attempting to enter licensed premise may only be conducted with the consent of the individual. However, licensees and operators trading and working in the night time economy can refuse access to a patron who does not consent to being searched by a door supervisor by making this a condition of entry to the premises.

Northumbria Police and the other Responsible Authorities expect licensees and operators to refuse access to any patron who does not consent to being searched when requested by a door supervisor. Licensees and operators should make their zero tolerance approach to drugs obvious and clear to patrons who attempt to enter and whilst they are on the licensed premises.

It is for the licensee and operator to determine how they can make their zero tolerance approach to drugs clear and obvious to patrons, and to implement the necessary measures to achieve this objective. Set out below are some of the measures/actions licensees and operators are encouraged to adopt and implement by Northumbria Police and the other Responsible Authorities:

- Display a sign confirming that the premises operates a 'zero tolerance approach to drugs' and that searches of patrons may be carried out by door supervisors.
- The sign should clearly state that any search may only be conducted with the consent of the individual and that any patron who refuses to be searched will be refused entry to the premises.
- When an individual is requested to consent to a search, the door supervisor should explain to the patron why they are being searched and how that search will be conducted.

- If a random search policy is operated then it should be carried out at a frequency which is likely to act as a deterrent and the selection criteria should comply with equality legislation.
- Male door supervisors may ask female patrons to empty the contents of their bag or pockets but a 'pat down' search may only be conducted by a door supervisor of the same sex.
- Seizures of illegal drugs should be recorded and the Police notified [see the procedure below].

The above is not intended as nor should it be treated as legal advice to licensees, operators, and their staff/contractors. If licensees, operators, and their staff/contractors have any queries regarding the search of patrons it is their responsibility to raise these queries with management, to review their own policies and procedures and to seek their own independent advice.

Seizure and Storage of Drugs & Notification to Police

If drugs are found on a person and it is a small amount which the door supervisor conducting the search believes is for the person's own personal use (i.e. a couple of tablets or a wrap of cocaine) the drugs should be seized by the door supervisor, recorded on the Drug Incident and Substance Management Form, the patron should be asked for their details and be refused entry to the premises.

If a person is found using drugs on the premises, the drugs should be seized, recorded on the Drug Incident and Substance Management Form, the patron should be asked for their details and directed to leave the premises.

The door supervisor does not however have any power to compel the patron to provide their details and nor does the door supervisor have a power to detain the patron.

Any drugs seized or found on licensed premises should be placed (using gloves wherever possible) in a self-seal bag and placed in a safe stored in a part of the licensed premises to which only the licensee, duty manager and their staff/contractors have access.

[Licensed premises must maintain a supply of self-seal bags. Bags will not be provided by Northumbria Police]

A Drug Incident and Substance Management Form is a document which records the date and time of the drugs seizure/find, the name (and where appropriate the Security Industry Authority badge number) of the person who seized/found the drugs, the name of the duty manager to whom the drugs were handed to for placement in the safe, the name and contact details of the person from whom the drugs were seized (if the patron provides his/her details), and a brief description of the drugs and the incident.

[A copy of the Drug Incident and Substance Management Form will be supplied to licensed premises by Northumbria Police and the licensee/operator is expected to ensure that there are sufficient copies of the form made available to staff/contractors working on the licensed premises]

The Drug Incident and Substance Management Form should be signed by the duty manager and counter signed by the person who seized/found the drugs.

An email should be sent to the local neighbourhood policing team within 24 hours of the drugs seizure/find confirming that drugs have been seized/found on the licensed premises. An officer will then attend the licensed premises to collect the drugs and inspect the Drug Incident and Substance Management Form. An officer will attend licensed premises every Monday and Friday to collect any seized/found drugs notified to police.

Drugs paraphernalia and needles should be dealt with according to health and safety guidelines and the licensed premises safe disposal policy.

Staff members should always ensure they are not putting their own health and safety at risk when handling drugs or associated paraphernalia. Licensees and operators should ensure that their staff and contractors are familiar with the health and safety policies and procedures of the licensed premises

If money or any written materials are found and they appear to indicate involvement in the supply of drugs, the advice of the Police should be sought before doing anything with these items (in case it ought to be collected as evidence of supply). Please refer to guidance on emergency and non-emergency contact.

Where drug related litter (such as needles or sharps) is found outside the premises and no one trained on safe disposal is available then this should be reported to Envirocall as a matter of urgency.

Email - envirocall@newcastle.gov.uk

Phone; 0191 278 7878 and ask for '*Envirocall*'

If a door supervisor recovers an amount of suspected drugs during a search and he/she believes that the amount held is for the purpose of supply, the police should be immediately contacted so an officer can attend the premises to deal with the situation. The drugs should be seized and stored in accordance with section 6 above.

The patron should be asked to provide their details. The door supervisor does not however have any power to compel the patron to provide their details and nor does the door supervisor have a power to detain the patron.

The licensee should ensure that the police are provided with any relevant evidence such as CCTV etc.

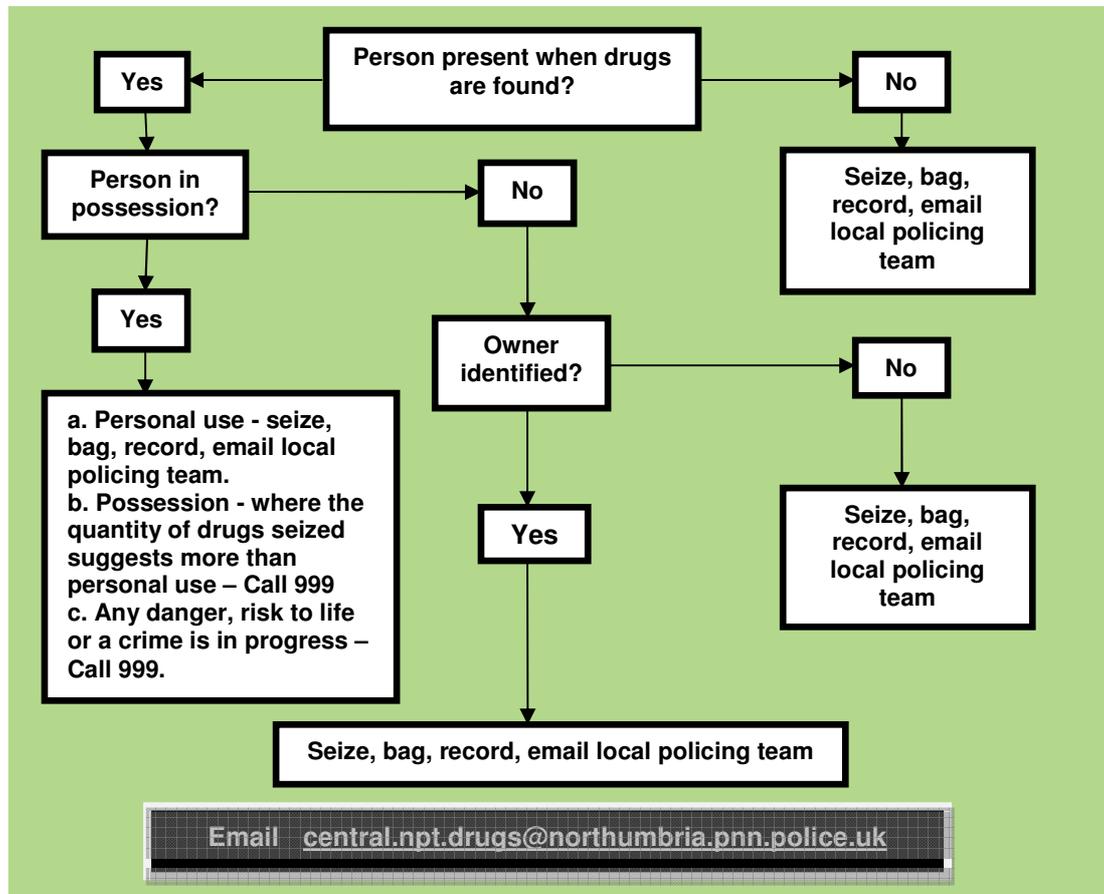
If a member of staff or a contractor finds a person on or near to the licensed premises who appears to have overdosed, they should immediately phone 999.

Supply of controlled drugs/psychoactive substances on or near to the premises

Where a member of staff/contractor knows or suspects that a person is supplying drugs on or near to the premises they should inform the manager of the premises, an SIA door supervisor and the police immediately. Upon being notified that drugs are being supplied on or near to the licensed premises, the police will consider the information and decide the appropriate action to take.

Members of staff/contractors may also contact the police directly if they observe the supply of drugs on or near to the licensed premises, or they have concerns that such criminal activity is taking place on or near to the licensed premises. The police will consider any such information provided and decide the appropriate action to take.

Drugs Seizure/Find on Licensed Premises Flowchart



Enforcement Action

If a licensed premise has an issue with drugs and the police (and/or any of the other Responsible Authorities) consider that the licensing objectives are being undermined, an application may be made to review the premises licence or the club premises certificate under the 2003 Act.

Where there is serious criminal activity on the premises (supply of drugs) or the use of drugs on or near to the licensed premises is causing nuisance and disorder, a Closure Notice may be issued by the police or the Local Authority under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014. Such notice would close the premises and an application will be made (unless the Notice is cancelled) to a magistrates' court for a closure order (A Closure Order can close the premises for a period of up to 3 months).

Failure to comply with the protocol (or the licensee's own drug policy which has been approved by Northumbria Police and the Licensing Authority of Newcastle City Council) will be a relevant factor when determining whether to take enforcement action and the nature of such action. Reference will be made to any serious and persistent failures to comply with the protocol (or the licensee's own drugs policy which has been approved by Northumbria Police and the Licensing Authority of Newcastle City Council) in any proceedings arising in connection with or as a result of enforcement action taken by any of the Responsible Authorities.

Identifying Vulnerability

Individuals who use drugs are vulnerable to serious side effects/ill health, exploitation (physical, psychological, financial and sexual), and to being the victim or perpetrator of a crime.

All persons working/trading in the night time economy will be aware of the vulnerability of patrons in the night time economy. Patrons are particularly vulnerable when intoxicated through alcohol and that vulnerability is significantly increased where a patron has also consumed drugs.

In addition to identifying and tackling the criminal behaviour, licensees and operators have an obligation to also consider the vulnerability of patrons who may have consumed alcohol or drugs and are refused entry/ejected from the premises.

Vulnerability definition:

A person is vulnerable if, as a result of their situation or circumstances, they are unable to take care of, or protect themselves or others, from harm, exploitation or other adverse impact on their quality of life.

Personal Factors + Situational Factors = Harm / Risk of Harm.

There are many factors that can make someone vulnerable, examples can be:

- Victim of Crime or ASB
- Intoxication through Alcohol or Drugs
- Alone or isolated
- Race / Age / Gender / Sexuality / Disability / Religion / Nationality
- Mental / Physical Health or
- Drug or Alcohol dependency / Homelessness / Personal circumstances

Considerations for Staff/Contractors:

- Age?
- State of intoxication?
- Do they appear to suffer from poor mental health or other disability?
- Do they have friends nearby?
- Do they have their belongings?
- Do they need medical attention/ambulance?
- Do the premises have a 'safe' room where the person can be put until assistance is arranged?
- Do the premises have 'welfare officers' who can assist?
- Is there a Street Pastor who is able to assist?
- Who are they with?
- Is there a family member/relative you can call?
- Can you call for a taxi?
- Is the Safe Haven operating?
- Do the police need to be notified?

Resources

Newcastle PROP's Support family members affected by a loved one's substance misuse. 0191 2263440

Over 18s: CGL (Change, Grow, Live) Integrated Support Service 0191 2615610

Under 18s: D'n'A Young Peoples Drug and Alcohol Service 0800 9533210

National resources:

Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

Newcastle City Council's Statement of Licensing Policy

British Beer & Pub Association, Drugs & Pubs: A guide to keeping a drug free pub

For information about drugs: - www.talktofrank.com

Safer nightlife advice and guidance

http://newip.safernightlife.org/pdfs/digital_library/uk_safer_nightlife_guideline.pdf

Newcastle Public Health team coordinate training for drugs and alcohol. Contact - Rachael.hope@newcastle.gov.uk for information.