

## CODE OF CONDUCT 2007

### Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### Disclosure of personal interests

9.—(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

**Prejudicial interest generally**

- 10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
    - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
    - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
    - (c) relates to the functions of your authority in respect of—
      - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
      - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
      - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
      - (iv) an allowance, payment or indemnity given to members;
      - (v) any ceremonial honour given to members; and
      - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committees**

- 11.—** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Effect of prejudicial interests on participation**

- 12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.



**AGENDA ITEM: 7**

**LICENSING & GAMBLING  
COMMITTEE:**

**27 November 2007**

**COUNCIL:**

**12 December 2007**

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**Report of: Executive Manager Community Services**

**Contact for further information: Mr Paul Charlson (Ext 5246)**

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**SUBJECT: APPROVAL OF REVISED STATEMENT OF LICENSING POLICY**

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LG13/CAL

District wide interest

**1.0 PURPOSE OF THE REPORT**

1.1 To approve the revised statement of licensing policy in principle prior to its submission to full Council.

**2.0 RECOMMENDATIONS TO LICENSING & GAMBLING COMMITTEE**

2.1 In accordance with Section 5 of the Licensing Act 2003, the revised Statement of Licensing Policy be approved with respect to the exercise of the Licensing Authority's functions under the Licensing Act 2003.

**2.0 RECOMMENDATIONS TO COUNCIL**

2.1 In accordance with Section 5 of the Licensing Act 2003, the Statement of Licensing Policy is approved with respect to the exercise of the Licensing Authority's functions under the Licensing Act 2003.

2.2 That the Executive Manager Community Services be authorised to publish the agreed Statement of Licensing Policy prior to the statutory deadline of 7<sup>th</sup> February 2008.

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### **3.0 BACKGROUND**

- 3.1 The Licensing Act 2003 became law on 24<sup>th</sup> November 2005 and established a single integrated scheme for licensing premises that are used for the sale/supply of alcohol, regulated entertainment or late night refreshment. Since that time the Council, like all Local Authorities in England and Wales, has taken the role of 'Licensing Authority' under the Act and has overseen these new controls.
- 3.2 As part of these responsibilities, the Act requires that all Licensing Authorities produce a statement of Licensing Policy to provide all stakeholders with guidance on the approach that the Licensing Authority will take under the Act. The first such Policy Statement was published by the Council on the 8<sup>th</sup> February 2005 and has been used extensively, and successfully, since that time. However, the Act requires that all Licensing Authorities review their Policy Statements at least every 3 years, and therefore this attached revised Policy Statement must be agreed before the 7<sup>th</sup> February 2008.

### **4.0 CURRENT POSITION**

- 4.1 A report to Council on 18<sup>th</sup> July 2007 requested delegated authority for the Executive Manager Community Services to prepare, and consult upon, a draft revised Statement of Licensing Policy, which would be returned to Full Council for approval before the 8<sup>th</sup> February 2008.
- 4.2 The Statutory Guidance (the Guidance), issued under Section 182 of the Act recommended that consultation on draft statements of Licensing Policy last for a minimum of 12 weeks.
- 4.3 Section 5(3) of the Act lists the minimum consultees whom all Licensing Authorities must contact. These are:
- Chief Officer of Police for the Licensing Authority's area,
  - The Fire Authority for that area,
  - Those representative of premises licence holders, club premises certificate holders, personal licence holders, businesses and residents in the area.
- 4.4 The Guidance also suggests that Licensing Authorities should consult on a wider basis including Community Safety Partnerships, local A&E departments, Trading Standards, local tourism representatives, local performers' representatives etc. However, the Guidance further states that it is for the Licensing Authority to decide the full extent of its consultation and should also have regard to cost and time.

4.5 Following Council approval, a formal 12-week consultation period was established, running from the 1<sup>st</sup> August 2007 until the 31<sup>st</sup> October 2007. A full list of consultees is given as an Appendix to this report, which includes all of the statutory and discretionary consultees. An explanatory letter was sent to each of the named consultees requesting their comments and providing the web address where the draft revised Statement of Licensing could be viewed. A specific response form was devised and appended to the draft revised Statement of Licensing Policy for ease of respondents use, as well as a table highlighting the key changes between the 2005 Policy and the revised 2008 version.

4.6 In addition, the following activities were undertaken to ensure an increased local awareness of the draft revised Statement of Licensing Policy and provide the means by which interested parties could respond to the consultation:

- Attendance at 'Pub-Watch' schemes in Ormskirk & Upholland;
- Regular press updates drawing attention to the draft revised Statement of Licensing Policy and the need for contributions (details of the consultation were published on the front page of the 'Midweek Advertiser' on the 29<sup>th</sup> August 2007);
- 'Have your say' leaflets distributed to all Council offices, police stations and libraries in the District, giving details of the draft revised Statement of Licensing Policy and where and how comments could be made;
- 'Have your say' posters provided at the main Council office, town centre and libraries in the District, giving details of the draft revised Statement of Licensing Policy and where and how comments could be made;
- Copies of the draft revised Statement of Licensing Policy available at main Council offices,
- Draft revised Statement of Licensing Policy posted on the Council's website, with specific online forms to receive comments.
- Use of a dedicated email address to receive comments on the draft revised Statement of Licensing Policy and other licensing queries,
- Chairing monthly meetings with representatives from Police, Fire & Magistrates Courts Services, with colleagues from Chorley and South Ribble Councils. (These meetings have taken place since late 2002 and coordinate the local response to the Act and promote consistency of policy and approach),
- Chairing of regular Lancashire wide licensing meetings with senior representatives from all Lancashire Local Authorities, Police, Fire & Magistrates' Court Services.

## **5.0 ISSUES**

- 5.1 The revised Statement of Licensing Policy appended to this Report has been compiled using all available legislation and guidance and takes account of the views expressed during the consultation period. However, the revised Policy does not differ greatly from the 2005 version with regard to any broad principle or procedural matters. Rather it provides a more accurate, succinct and practical document that builds upon the experience of Officers, Members, Responsible Authorities and Interested Parties since 2003, and it is hoped will be of greater use to these stakeholders for the next 3 years. (A copy of the consultation response analysis is also appended for Members' information).
- 5.2 In order for the Council to function as Licensing Authority, the appended revised Statement of Licensing Policy must be approved for publication and use.

## **6.0 PROPOSALS**

- 6.1 In order to meet the requirements of Section 5 of the Licensing Act 2003, the revised Statement of Licensing Policy be approved by Council with respect to the exercise of the Licensing Authority's functions under the Licensing Act 2003.
- 6.2 In order to meet the requirements of Section 5 of the Licensing Act 2003, the Executive Manager Community Services be authorised to publish the statement of Licensing Policy agreed by Council prior to the statutory deadline of 7<sup>th</sup> February 2008.

## **7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 7.1 This Act has the potential to impact upon many areas within the Community, particularly upon the leisure time of the public of West Lancashire. The Licensing Objectives, therefore, fit closely with many aspects of the Community Strategy, and the proposal has the following links with the Community Strategy: Community Safety (issues A, C and E); Economy and Employment (issue D); Health and Social Care (issue A). The operation of the Act links closely with the Corporate Priority Action Plan, as one of the four Licensing Objectives (under the Act) is the 'prevention of crime and disorder', and therefore will be influential to 'combat crime and the fear of crime'.

## **8.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 8.1 No additional financial or other resources are required.

## **9.0 RISK ASSESSMENT**

- 9.1 The Council has a legal duty to carry out the functions of the Act; therefore failure to do so is a breach under the Act. Accordingly, there is significant involvement from, and impact upon, statutory bodies, the licensed trade, the public and other interested parties associated with this legislation and its administration.

## **10.0 CONCLUSIONS**

- 10.1 The revised Statement of Licensing Policy will continue to have far reaching implications and aims to reflect the issues that have arisen in the District since the Act came into force. It therefore aims to provide improved guidance for both Officers and elected Members to ensure that decisions are made in a fair and consistent manner, as well as being an invaluable tool for applicants.

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### **Background Documents**

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

- 10<sup>th</sup> July 2003: Licensing Act 2003  
28<sup>th</sup> June 2007: Guidance issued under Section 182 of the Licensing Act 2003  
7<sup>th</sup> February 2005: West Lancashire District Council – Statement of Licensing Policy

### **Equality Impact Assessment**

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

### **Appendices**

- Appendix 1 - West Lancashire District Council - Statement of Licensing Policy 2008  
Appendix 2 - Consultation response analysis details
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# **West Lancashire District Council**

## **Licensing Act 2003**

### **Statement of Licensing Policy 2008**

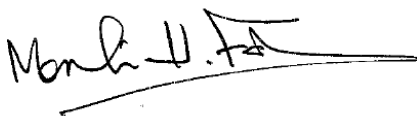
## Introduction to this revised Policy Statement

The Licensing Act 2003 became law on 24<sup>th</sup> November 2005 and established a single integrated scheme for licensing premises that are used for the sale/supply of alcohol, regulated entertainment or late night refreshment. Since that time West Lancashire District Council, like all Local Authorities in England and Wales, has taken the role of 'Licensing Authority' under the Act and has overseen these new controls.

As part of these responsibilities, the Act requires that all Licensing Authorities produce a statement of Licensing Policy to provide all stakeholders with guidance on the approach that the Licensing Authority will take under the Act. The first such Policy Statement was published by West Lancashire District Council on the 8th February 2005 and has been used extensively since that time. However, the Act requires that all Licensing Authorities review their Policy Statements at least every 3 years, and therefore this revised Policy Statement was agreed by Full Council on the 12<sup>th</sup> December 2007 and came into force on the 7<sup>th</sup> February 2008.

As part of the review process, the Council undertook a consultation exercise, which aimed to take account of the opinions of all who could be affected by the Act. Our consultation period lasted a little over the recommended period of 12 weeks, from the 1<sup>st</sup> August 2007 until the 31<sup>st</sup> October 2007, and during this time all the comments that were received have helped to shape this current version of our Policy Statement.

This revised Policy Statement will continue to have far reaching implications and aims to reflect the issues that have arisen in the District since the Act came into force. It therefore provides improved guidance for both Officers and elected Members to ensure that decisions are made in a fair and consistent manner, as well as being an invaluable tool for applicants, residents and other occupiers of property and investors, to enable them to make plans to move or invest in the District with confidence.

A handwritten signature in black ink, appearing to read 'Martin Forshaw'. The signature is stylized and includes a long horizontal flourish at the end.

**Councillor Martin Forshaw**  
Chair of the Licensing and Gambling Committee

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## **1.0 Legal Background and Rationale**

- 1.1** West Lancashire District Council (the Council) is designated as the 'Licensing Authority' (the Authority) under the Licensing Act 2003 (the Act), and is responsible for granting all authorisations designated under the Act in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment within its boundaries.
- 1.2** This Licensing Policy Statement sets out the manner in which the Authority will generally promote the Licensing Objectives when considering, and making decisions on, applications made under the Act. This Policy Statement has been prepared under Section 5 of the Act and in accordance with the current version of the Secretary of State's Guidance issued under Section 182 of the Act (the Guidance). The Authority is therefore constrained by the provisions of the Act, the Guidance and the Regulations made under the Act. However, the Authority may depart from the Guidance if it has reason to do so, but will give full justification for such departure.
- 1.3** Nothing in this Policy Statement will undermine the rights of any person to apply for a variety of authorisations under the Act and have the application considered on its individual merits. However the Authority will expect all applications to, where necessary, specify the methods, precisely and clearly, by which they will promote the four Licensing Objectives.
- 1.4** Nothing in this Policy Statement will override the right of any person to make relevant representations on any application or seek a review of a Premises Licence or Club Premises Certificate where they are permitted to do so under the Act. However this will not include representations that are frivolous, vexatious, repetitious or irrelevant (See Section 8.0).
- 1.5** This Policy Statement shall be effective from the 7<sup>th</sup> February 2008 and shall remain in effect for three years; therefore this Policy Statement will be reviewed by the 7<sup>th</sup> February 2011. Following this full review of its Policy Statement, and prior to its publication, the Authority will consult fully those groups and individuals consulted on this version.
- 1.6** This Policy Statement will also be kept under review during this three year period, and accordingly, the Executive Manager Community Services will maintain an 'Issues Log' in which all issues pertaining to this Policy Statement will be recorded. Therefore the Authority will make revisions to the Policy Statement at such times as it considers appropriate, for example where relevant issues have arisen, or where matters recorded in the 'Issues Log' indicate that that such a review is required. No issues were recorded in the log during the previous three-year period.

## 2.0 Scope

2.1 This Policy Statement covers the following authorisations:

- **Personal Licences** – to sell or supply alcohol and/or authorise the sale / supply;
- **Premises Licences** – to use a premises for licensable activities;
- **Club Premises Certificates** – to allow qualifying a club to engage in qualifying club activities as set out in Section 1 of the Act;
- **Temporary Event Notices** – to carry out licensable activities at a temporary event.

2.2 In this regard, this Policy Statement covers all permissions provided for by the Act in relation to the authorisations detailed in paragraph 2.1, including new applications, transfers, variations and (where required) renewals of the authorisations detailed in paragraph 2.1. This Policy Statement also includes the review (where required) of these authorisations, which could lead to a range of sanctions available to the Authority including, where circumstances require, the revocation of the authorisation. A glossary of the key terms used in this Policy Statement is detailed in Appendix 2.

2.3 All relevant application forms and guidance can be obtained from the Licensing Service, as well as from the Department for Culture Media and Sport (see Appendix 4 – useful contacts).

## **3.0 Licensing Objectives**

**3.1** In carrying out its functions under the Act, the Authority will promote the Licensing Objectives:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

**3.2** Each of the Licensing Objectives is considered of equal importance for the purposes of this Policy Statement.

**3.3** In accordance with the Guidance, this Authority will avoid duplication with other regulatory regimes (for example, the Health and Safety at Work etc Act 1974) when considering applications and conditions attached to Premises Licences or Club Premises Certificates.

**3.4** The Authority will also avoid the use of standard conditions and will tailor conditions to the size, style, characteristics and activities taking place at the premises concerned. This approach is essential to avoid the imposition of disproportionate and burdensome conditions on premises where there is no need for such conditions. The Authority will, however, draw from a 'pool' of conditions if deemed relevant to individual premises and/or the Licensing Objectives. This pool of conditions is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing)

**3.5** The purpose of the Authority's licensing duties is the control of licensed premises and events defined under the Act. Where relevant representations are made, conditions may be attached to the specific authorisation that will focus on matters that are within the control of the individual licensees and others granted relevant permissions. These matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being "in the vicinity" or "related to" licensed premises is ultimately a matter of fact to be decided by the Courts in cases of dispute.

**3.6** The Authority will, however, primarily focus on the direct impact of the activities taking place at the licensed premises on the public living, working and engaged in normal activity in the area concerned.

**3.7** However, the Act is not a mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the licensee. Notwithstanding the previous sentence, to the extent that such matters are within their control, licensees are expected to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter.

- 3.8** The Authority recognises that under Article 8 of the European Convention on Human Rights everyone has the right to respect for his/her private and family life. The Authority also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable nuisance caused by licensed premises.
- 3.9** This Policy Statement recognises the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, which places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. This Policy Statement also recognises that the Council is required to produce a race equality scheme assessing the impact of proposed policies on race equality and to monitor policies for only adverse impact on the promotion of race equality, and this Policy Statement is referenced in this race equality scheme. The Authority, in determining applications, will have regard to this legislation so as to avoid any possible indirect discriminatory impact on particular ethnic groups.
- 3.10** This Policy Statement recognises the Disability Discrimination Act 1995, however no condition will be attached to a Premises Licence or Club Premises Certificate that conflicts or duplicates this requirement.

## **4.0 The District of West Lancashire**

- 4.1** West Lancashire is the most southerly of the Local Authorities within Lancashire. It has a population of 108,500 (National Census 2001) and covers an area of over 34,000 hectares, a large proportion of which is good and versatile agricultural land. The District has two market towns: Ormskirk and Burscough, with mainly rural parishes and villages to the north, (there are 19 Parish Councils and one Parish Meeting), and the former New Town of Skelmersdale to the east. A map of the District is given as Appendix 1.
- 4.2** West Lancashire is an attractive area and has a good road and rail network. The District benefits from social, retail and leisure links with the nearby urban areas of Liverpool, Southport, Preston and Wigan. These factors have led to Ormskirk and other parts of the District becoming popular areas to live for commuters.
- 4.3** The high quality of farmland, and its landscape and the substantial Green Belt designation, mean that the District is generally an area of development constraint and the main opportunities for development remain in Skelmersdale, which is consistent with strategic and regional guidance.
- 4.4** There are approximately 330 premises that hold either a Premises Licence and/or Club Premises Certificate within the District. These premises mainly comprise of public houses, members only clubs, off licences, restaurants and a nightclub in Ormskirk Town Centre. In addition there are approximately 80 hot food takeaways throughout the District.
- 4.5** The Council's Community Services Division receives approximately 730 complaints about noise per year, with approximately 130 complaints relating to commercial premises, or their customers. The Authority will consider conditions with regard to noise control in areas, which have denser residential accommodation, but opening hours will not be limited without regard to the individual merits of any application.
- 4.6** The Council also has a responsibility under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to reduce crime and disorder in its area. Accordingly, it is recognised that prevention of crime and disorder is a vital element of ensuring the quality of life in a community and an important aspect of a successful and vibrant economy. The link between alcohol and disorder is well recognised and the Authority is committed to working with its partners and the community to address this. Therefore, the Authority will have regard to the Government's National Alcohol Harm Reduction Strategy and to the results of police records of general crime and disorder, when formulating this Policy Statement. Appendix 3 provides data outlining the number of calls and incidents handled by Lancashire Constabulary with regard to crime and disorder within the West Lancashire District.



- 4.7** The Authority will not seek to introduce ‘zones’ i.e. the setting of fixed trading hours within a designated area. Zoning also assumes that residents in one particular area would be treated less well than another, simply because residential housing is less dense than in other areas. It also undermines one of the principles on which the Act is based i.e. the avoidance of fixed and artificially early closing times which produce peaks of disorder and disturbance at times when a majority of customers emerge simultaneously.
- 4.8** The Authority seeks to maintain a balance between the businesses operating in its area, the residents living within its area and cultural, entertainment and tourist interests. Full consideration has been given to all these issues in formulating this Policy Statement.
- 4.9** Accordingly, the Authority is seeking to provide an attractive District. By engaging and consulting with the community, the Authority is seeking to:
- Improve the quality of life for all in the District;
  - Reduce the levels of crime and disorder in the District;
  - Promote a strong and sustainable economy;
  - Aim to reduce levels of poverty and social exclusion in the District by developing a more inclusive community;
  - Help to improve the health and well being of the District’s residents.

## **5.0 Development Process / Consultation**

- 5.1** This is the second revision of this Policy Statement and, as dictated by the Act, this revised Policy Statement has been developed after proper consultation with statutory consultees and other interested parties. A public consultation operated from the 1<sup>st</sup> August until the 31<sup>st</sup> October 2007 and the Authority has given due regard to the responses from this consultation process when formulating this revised Policy Statement. The list of consultees is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing)
- 5.2** In determining this revised Policy Statement, the Authority has given regard to the Guidance and given proper weight to the views of those it has consulted. The Authority may, if it considers appropriate, deviate from the Guidance, and if such a deviation is taken, the Authority will provide the applicant with full substantiated and justified reasons as why that decision was taken.
- 5.3** This revised Policy Statement has not been developed in isolation. It has been developed in conjunction with other Lancashire Authorities and takes account of the position in adjoining Authorities, whilst being tailored specifically to the needs of the West Lancashire area.

## **6.0 Integration Strategies**

### *General*

- 6.1** There are a large number of stakeholders affected by the Act, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the Licensing Objectives, particularly those relating to the prevention of crime and disorder and public nuisance. The Authority, therefore, recognises that as part of implementing local authority cultural strategies, proper account should be taken of the need to encourage and promote live music, dance, theatre etc for the wider cultural benefit of the community. The Authority will endeavour to monitor the impact of its decisions on live music, dancing, theatre etc to ensure that this principle is being upheld.
- 6.2** Many of these strategies deal in part with the licensing function, and the Authority will involve in appropriate liaison arrangements to ensure proper integration of local crime prevention, planning, local transport (including taxis, buses and rail), tourism and cultural strategies.
- 6.3** Coordination of duties will involve close, and regular, liaison with Lancashire Constabulary, Lancashire Fire and Rescue Service, health and safety inspectors (either from the Council or the Health and Safety Executive) and the Council's Environmental Health Officers dealing with statutory nuisance, including noise nuisance. This shall be carried out through regular local meetings, regarding strategic and operational issues raised by the Act.
- 6.4** The Authority will ensure that, in accordance with the Guidance, the Licensing and Gambling Committee, and any Sub-Committees thereof, will receive regular reports on the following matters to ensure these are taken into account, without prejudice, when making their decisions:
- The needs of the local tourist economy and cultural strategy for the District, and,
  - The employment situation in the District and any need for investment and employment where appropriate.
- 6.5** As detailed in paragraph 3.3, the Authority recognises the need to avoid duplication with other regulatory regimes. However, these general duties may not adequately address the unique circumstances that arise on a given premises in connection with, for example, certain types of entertainment. Therefore where relevant representations have been received, the Authority will consider attaching conditions to authorisations where these are necessary and proportionate for the promotion of the Licensing Objectives and are not already provided for in any other legislation.

*Planning and building control*

- 6.6** Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. The ‘need’ for licensed premises concerns commercial demand and therefore is a matter for the Council’s Planning Committee and the market, not the Authority or this Policy Statement.
- 6.7** Planning and licensing regimes involve consideration of different (albeit related) matters, for example the Authority will consider public nuisance whereas the Council’s Planning function considers amenity. Accordingly, the Authority will ensure that the licensing and planning regimes are kept separate and that applications made under the Act should not be a re-run of the planning process, and vice versa.
- 6.8** Applications for Premises Licences and/or Club Premises Certificates for permanent commercial premises should normally be from businesses with planning consent for the property concerned. The Authority will therefore not normally process an application for permanent commercial premises unless it can be demonstrated that the premises either have an appropriate (in relation to the proposed activities and the hours sought) planning consent or an appropriate certificate of lawful use or development. Nevertheless, the Act does not prevent an application being submitted before any relevant planning permission has been sought or granted, however prospective applicants are warned of potential breaches of legislation, for example where a terminal hour has been set for the use of premises for commercial purposes, and these are different from the licensing hours, the applicant must observe the earlier closing time. Similarly, where the variation of an authorisation involves a material alteration to a building, this does not relieve the applicant of the need to apply for the relevant planning or building control permissions.
- 6.9** To preserve these arrangements, the Planning Committee will be kept regularly apprised of the situation regarding licensed premises within the District, including the general impact of alcohol related crime, to enable its Committee to have regard to such matters when taking decisions to avoid any unnecessary overlap.

## **7.0 Administration, Exercise and Delegation of Functions**

- 7.1** The Authority is involved in a wide range of licensing decisions and functions and the Licensing and Gambling Committee will administer this responsibility, where required by the Act. This Committee consists of 15 elected Members and has 1 chairman and 1 vice chairman. The Committee is further divided into 3 Sub-Committees of 3 elected Members.
- 7.2** A meeting of the full Licensing and Gambling Committee will be held when it is considered necessary to review the contents of this Policy Statement, to comply with any requirements of the Act or to determine any other matter of relevance to the Authority.
- 7.3** A Sub-Committee will sit to hear applications for authorisations as required in the Act. In practice this will mean those applications that have attracted relevant representations from either an 'Interested Party' and/or 'Responsible Authority' or a review of an existing authorisation.
- 7.4** Applications that do not attract relevant representations are determined under delegation to the Executive Manager Community Services. Table 7.8a summarises this delegation procedure. Accordingly, the Licensing and Gambling Committee will receive regular reports on the decisions made by officers to ensure that Members maintain an overview of the general situation.
- 7.5** Decisions on whether a representation, or grounds for review of an existing authorisation, is relevant, repetitious, frivolous or vexatious are delegated to the Executive Manager Community Services. Accordingly, where a representation is considered to be irrelevant, repetitious, frivolous or vexatious, the Executive Manager Community Services will inform the author of the representation in writing and give reasons for this decision. The Executive Manager Community Services will also inform the applicant and/or licensee when such a decision is taken.
- 7.6** In exceptional circumstances it may be necessary for the Licensing and Gambling Sub-Committee to refer any matter that it is unable to deal with because of the number of its Members who are unable to take part in the consideration or discussion of any matter on any question with respect to it, to the Licensing and Gambling Committee.
- 7.7** In exceptional circumstances it may be necessary for the Licensing and Gambling Committee to refer any matter that it is unable to deal with because of the number of its Members who are unable to take part in the consideration or discussion of any matter on any question with respect to it, to the Licensing Authority, which in normal circumstances will mean Full Council.
- 7.8** All decisions made by either the Licensing and Gambling Committee, a Sub-Committee thereof or the Executive Manager Community Services will be confirmed in writing to the applicant and any person who has made a relevant representation forthwith.

**Table 7.8a - delegations**

<b>Matter to be dealt with</b>	<b>Delegated authority to:</b>	
	<b>Committee / Sub-Committee</b>	<b>Executive Manager Community Services</b>
Application for Personal Licence	If a Police objection is made	If no objection is made
Application for Personal Licence, with unspent convictions	All cases	-
Application for Premises Licence/ Club Premises Certificate	If a relevant representation is made	If no relevant representation is made
Application for Provisional Statement	If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence / Club Premises Certificate	If a relevant representation is made	If no representation is made
Application to vary Designated Premises Supervisor	If a Police objection is made	All other cases
Request to be removed as Designated Premises Supervisor	-	All cases
Application for transfer of premises licence	If a Police objection is made	All other cases
Application for Interim Authorities	If a Police objection is made	All other cases
Application to review Premises Licence / Club Premises certificate	All cases	-
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	-
Determination of a police objection to a Temporary Event Notice	All cases	-

## **8.0 Hearings**

- 8.1** A hearing will be arranged to deal with any applications that have attracted representations and which cannot be dealt with under delegated powers or resolved by agreement between applicants and Interested Parties and/or Responsible Authorities.
- 8.2** Each case will be determined on its individual merits and the Authority give appropriate weight to:
- The steps necessary to promote the Licensing Objectives;
  - The information provided by all parties to the hearing;
  - The Guidance;
  - This Policy Statement.
- 8.3** Hearings will be held at the earliest possible date having regard to the Regulations published under the Act and the laws of natural justice. The Licensing and Gambling Sub-Committee (or Licensing and Gambling Committee) will conduct a quasi-judicial consideration of the application and relevant representations. Members of the Licensing and Gambling Sub-Committee (or Licensing and Gambling Committee) will carefully consider their position should they be requested to hear matter which occurs in their own ward.
- 8.4** A legal advisor, advocate or a friend may represent any party to the hearing, where such individuals choose not to represent themselves. Accordingly, in an effort to assist all parties when preparing for and participating in a hearing, the Authority has prepared a hearing procedure. This procedure will be adhered to in all hearings, a copy of which will be provided to all parties in advance of the hearing. This hearing procedure is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing)
- 8.5** Whilst the Licensing and Gambling Sub-Committees (or Licensing and Gambling Committee) will usually meet in public, they do have the power to hear certain applications in private. Where this is required all parties to the hearing shall be informed.
- 8.6** A public announcement of the decision will be made at the end of the hearing and a written copy of the decision will be provided to all parties to the hearing. The decision determined by the Licensing and Gambling Sub-Committee (or Licensing and Gambling Committee), will be accompanied with clear reasons for the decisions, having regard to the Human Rights Act 1998, the Licensing Objectives and all other relevant legislation.
- 8.7** The decision of the Licensing and Gambling Sub Committee (or Licensing and Gambling Committee) may involve the imposition of conditions on authorisations. Any such condition(s) will necessary and proportionate for the promotion of one or more of the Licensing Objectives and will be tailored to the needs of the specific application. Conditions will not relate to matters, which are the subject of other legislation. A pool of conditions will be

maintained and published separate to this Policy Statement. Any condition may be drawn from the pool, be based upon such a condition or may be devised having regard to the particular circumstances of the application. This pool of conditions is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing)

**8.8** Prior to a hearing for a new application for a Premises Licence and/or Club Premises Certificate, Members of the Licensing and Gambling Committee (or Sub-Committee thereof) will conduct a site visit. The visit is conducted to ensure Members have a full understanding of the application, the premises and the locality. To preserve the integrity of the hearing process, any such visit will be carried out in accordance with a strict protocol. This protocol is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing)

**8.9** Site visits will not normally be conducted for any other application or authorisation, apart from a review of a Premises Licence or Club Premises Certificate (see Section 9.0). However, notwithstanding the previous sentence, any contested application or authorisation that presents one or more of the following may also attract a site visit:

- A substantial number of representations have been made in relation to the application or authorisation;
- The nature of the application or authorisation is sufficiently complex;
- It is reasonably foreseeable that the nature of the application or authorisation could present a significant impact on the Licensing Objectives.

#### *Representations*

**8.10** It is open to any Responsible Authority or Interested Party to make a representation against any relevant application during the consultation period for that application. A representation should relate to the likely effect of the grant of the authorisation on the promotion of at least one of the Licensing Objectives. Any representation that fails to provide to do this will be considered as 'irrelevant' for the purposes of the Act.

**8.11** Representations will be determined on their own merits as to whether they are considered to be relevant, frivolous, vexatious or repetitious.

**8.12** Representations must be received in writing at the Licensing Service office (see Appendix 4 – useful contacts). Representations must provide the following information as a minimum:

- The name and address of the person (or body) making the representation;
- The grounds of the representation, including supporting evidence;
- The signature of the person (or representative of the body) making the representation;
- The date the representation was made.



- 8.13** Representations may be made by email as long as the email contains the name and address of the person (or body) making the representation. Upon receipt of the email representation, the Licensing Service will date stamp the email.

## **9.0 Reviews**

**9.1** Following the grant of a Premises Licence or Club Premises Certificate, a Responsible Authority or an Interested Party (or member in the case of a qualifying club) may request the Authority to review the Premises Licence/Club Premises Certificate where problems associated with any of the Licensing Objectives are, or have, occurred. The Authority does not have the power to instigate its own review, however Council Officers who are designated as Responsible Authorities may request a review of the Premises Licence/Club Premises Certificate in the same manner.

**9.2** In all cases the application for review must relate to a particular premises for which a Premises Licence/Club Premises Certificate is in force and must be relevant to the promotion of one or more of the Licensing Objectives.

**9.3** The Authority will seek to prevent attempts to review Premises Licences/Club Premises Certificates, which are merely a 'second bite of the cherry' following the failure of representations on previous occasions, and will therefore examine each application in the context of previous applications and decisions.

**9.4** Requests for reviews will be rejected where, in the view of the Authority, the request is not relevant (to the Licensing Objectives), or in the case of requests from Interested Parties, it is frivolous, vexatious or repetitious.

**9.5** The Authority recognises that the promotion of the Licensing Objectives requires a partnership approach. The Authority considers that Interested Parties and Responsible Authorities will give Premises Licence/Club Premises Certificate holders sufficient warning of their concerns regarding any problems identified at the premises and the need for improvement. The Authority therefore expects Premises Licence/Club Premises Certificate holders to respond to such warnings and implement the necessary remedial action. Any failure to respond to such warning may lead to an Interested Party or Responsible Authority requesting a review of the Premises Licence/Club Premises Certificate. However, where the matter is sufficiently serious for a Responsible Authority to take immediate action, this must be carried out under their lawful powers, and notification of such action communicated to the Authority at the earliest possible time.

**9.6** Where the Authority considers that action is required in response to a review, this will be necessary and proportionate to one or more of the Licensing Objectives. Such action may include:

- Modification of conditions;
- Exclusion of licensable activities;
- Removal of Designated Premises Supervisor;
- Suspension of the licence/certificate for a period not exceeding 3 months;
- Revocation of the Premises Licence/Club Premises Certificate.

**9.7**

Prior to the hearing, Members of the Licensing and Gambling Committee will conduct a site visit. The visit is conducted to ensure Members have a full understanding of the review application, the premises and the locality. To preserve the integrity of the hearing process, any such visit will be carried out in accordance with a strict protocol. This protocol is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing)

## **10.0 Appeals**

- 10.1** The Authority will address the rationale for its decision with regard to the Act, the Licensing Objectives, the Guidance and this Policy Statement.
- 10.2** Following a hearing, the Authority will notify all parties of the decision and any conditions that have been imposed. This will be done verbally and in writing at the time of the hearing.
- 10.3** There is a right of appeal against the decision and/or any condition attached to an authorisation. An appeal would normally be lodged with the Justices' Chief Executive of the South West Lancashire Magistrates' Court within a period of 21 days, beginning from the day on which the Authority notified the applicant of the decision (i.e. the day of the hearing).
- 10.4** On determining an appeal the Magistrates' Court may:
- Dismiss the appeal;
  - Substitute for the decision any other decision which could have been made by the Authority;
  - Remit the case to the Authority to dispose of it in accordance with the direction of the Court.
  - Make such order as to costs as it thinks fit.
- 10.5** As soon as the decision of the Magistrates' Court has been made, the Authority will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example as a result of a judicial review). Except in the case of closure orders, the Act provides no further appeal against the decision of the Magistrates' Courts and normal rules of challenging decisions of Magistrates' Courts will apply.

## **11.0 Enforcement**

- 11.1** Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the Licensing Objectives and compliance with the specific requirements of the Act. The Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this, so as to ensure the continued promotion of the Licensing Objectives through compliance with the conditions attached to the Premises Licence/Club Premises Certificate. Enforcement visits will therefore be carried out as a response to a complaint(s) or as part of a proactive risk based inspection regime and/or targeted initiative.
- 11.2** Where enforcement may be necessary, it will be taken in accordance with the Community Services Enforcement Policy (which is available from the Executive Manager Community Services, at the address given in Appendix 4). To this end, the key principles of consistency, transparency and proportionality will be maintained.
- 11.3** The Authority will work closely with the appropriate agencies to establish protocols to ensure an efficient deployment of Police, Fire and Rescue and other agencies engaged in enforcing relevant legislation and inspecting licensed premises, in order to ensure that resources are targeted at problem and high-risk premises.

## **12.0 Personal Licences**

- 12.1** A Personal Licence is granted to an individual that authorises the supply of alcohol in accordance with a Premises Licence and will last for ten years. Applications for Personal Licences must be made to the Authority if the applicant is normally resident in the District of West Lancashire. All Personal Licences granted by the Authority must also be renewed with the Authority, until the Personal Licence lapses or is revoked.
- 12.2** Applicants for a Personal Licence under Part 6 of the Act will have to demonstrate that they possess a licensing qualification (to the standard set in the Guidance), are aged over 18 years, do not have a relevant or foreign criminal conviction and have not had a Personal Licence forfeited within five years of their application. Lancashire Constabulary may object to an applicant on crime prevention grounds. Failure to produce evidence to substantiate compliance with the criteria will lead to the application being opposed and the matter referred for a hearing.
- 12.3** The Authority requires applicants for Personal Licences to produce an up to date basic Criminal Record Bureau Disclosure form with their application. Where a relevant or foreign offence exists, the Authority will serve the application on Lancashire Constabulary for consideration.
- 12.4** Where Lancashire Constabulary have made such an objection, there will be a presumption against the granting of the Licence unless it can be demonstrated to the Authority that there are compelling circumstances to justify granting the same.
- 12.5** At any hearing to determine the grant of a Personal Licence the Licensing and Gambling Sub-Committee (or Licensing and Gambling Committee) will ensure that the grant of that licence would not be contrary to the 'crime prevention' Licensing Objective. The Licensing and Gambling Sub-Committee (or Licensing and Gambling Committee) will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances.

## **13.0 Premises Licences & Club Premises Certificates**

**13.1** A Premises Licence / Club Premises Certificate is required for any premises where it is intended that a licensable activity should take place.

**13.2** Any person aged 18 years or over who is carrying on or who proposes to carry on a business that involves the use of premises for licensable activities may apply for a Premises Licence / Club Premises Certificate either on a permanent basis or for a time-limited period. A “person” in this context includes a business or partnership. For example, where the premises is a managed public house, the Authority will expect the applicant for a Premises Licence to be the pub operating company, as the manager (as an employee) would not be able to do so. The same applies for premises such as cinema chains and fast food restaurant chains where the managers will, similarly be employees of the operating company. However, in respect of most leased public houses, a tenant may run or propose to run the business at the premises in agreement with the operating company. In such cases it will not be a matter for the Authority to decide who should apply for the Premises Licence, but a matter for the tenant and the operating company to agree contractually.

**13.3** Applications for new Premises Licences / Club Premises Certificates, or variations should be made in accordance with the Act and any relevant Regulations. Applications should provide as much information as possible regarding the application within the Operating Schedule section of the relevant application form. This information should be prepared having regard to the characteristics of the business, the nature of the area within which the premises is situated and the licensable activities for which approval is being sought. Applicants are encouraged to consult with the relevant Responsible Authority for assistance when preparing their Operating Schedules (See Appendix 4 – useful contacts).

**13.4** The application should clearly and precisely identify the steps by which the applicant intends to meet the Licensing Objectives. Therefore, the information contained in the Operating Schedule should address practically how the proposed steps (and associated controls) are to be achieved.

### *Alterations to Licensed Premises*

**13.5** The required plans submitted as part of an application for either a Premises Licence or Club Premises Certificate must not be amended or altered without prior consent of the Authority. Premises Licence or Club Premises Certificate holders should consult with the Council’s Licensing Service before making any alterations that may affect the plan.

**13.6** The Authority will expect Premises Licence or Club Premises Certificate holders to submit a variation or new application in any instance where any alteration will mean a change in the plan. The decision as to whether a new or variation application is required lies with the Authority.

**13.7** The following sections aim to provide guidance on the Licensing Objectives and are indicative of the Authority’s considered view.

## **14.0 Crime and Disorder**

- 14.1** The duty of the Authority under Section 17 of the Crime and Disorder Act 1998 (detailed in paragraph 4.6) is in addition to its duty under Section 4 of the Act to promote the prevention of crime and disorder. The Authority is therefore committed to supporting its partnership work in the fight against crime and disorder in West Lancashire.
- 14.2** Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems. Therefore the Authority will have particular regard to the likely impact on licensing related crime and disorder within the District, particularly when considering the location and impact of any application.
- 14.3** The Authority will have regard to the Government's National Alcohol Harm Reduction Strategy and the powers available in the Act, and associated legislation, such as the Anti Social Behaviour Act 2003 and the Crime and Disorder Act 2001.
- 14.4** In accordance with 'the prevention of crime and disorder' Licensing Objective, applicants will be expected to demonstrate in their Operating Schedule that sufficient measures have been identified, implemented and maintained to address crime and disorder within the premises and also in the 'vicinity' of the premises. Controls must be relevant to the style and characteristics of the proposed activities.
- 14.5** The Authority recognises that only a minority of customers will behave badly and this Policy Statement cannot address issues relating to behaviour of individuals or groups, unless they are in the vicinity of the applicants licensed premises. However, applicants should note that this Policy Statement is an integral part of a coordinated approach to reducing crime and disorder and should therefore demonstrate in their Operating Schedules, and day-to-day operations, how they participate and promote local policies and initiatives. The term 'vicinity' can only be defined when having regard to the individual circumstances of an application and also having due regard to any representations or observations received from Responsible Authorities or Interested Parties. Whether or not incidents can be regarded as being "in the vicinity" or "related to" licensed premises is ultimately a matter of fact to be decided by the Courts in cases of dispute.
- 14.6** When considering licence applications, and where appropriate to the premises and/or the licensable activity, the Authority will particularly consider the following if necessary and/or appropriate:
- The capability of the Designated Premises Supervisor or any other person appointed by him to be in charge of the premises to ensure effective and responsible management of the premises;
  - The training given to staff in crime prevention measures;
  - Procedures for risk assessing promotions and events, such as 'happy hours' in relation to crime and disorder, and the plans to minimise such risks;



- Adoption of the 'Best Bar None' scheme as an example of best practice;
- The participation in the local 'Pub Watch' initiative (where available);
- Adoption of best practice guidance in relation to safer clubbing etc;
- The use of display materials conveying clear, relevant and consistent messages regarding safe drinking;
- Physical security features installed in the premises (i.e. location and standard of CCTV equipment);
- Measures to prevent the supply of illegal drugs, including search and entry policies;
- Employment of door supervisors licensed by the Security Industry Authority;
- Measures to be taken for the prevention of violence and disorder;
- The presence, or otherwise, of sufficient transport facilities to ensure that customers can leave the premises safely and swiftly;
- The introduction of plastic bottles and glasses and/or toughened glasses;
- The implications of the Health Act 2006 (smoking ban);
- Weapon detection and search facilities.

**14.7** Where a relevant Representation has been received, and cannot be agreed by all parties, the Authority will consider attaching conditions to deter and prevent crime and disorder. These may include conditions taken from the pool of model conditions, which is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing). Certain premises may be required to install CCTV systems, which will be to an evidential standard, if the Authority is satisfied that it is necessary to meet any of the Licensing Objectives.

**14.8** The Council reserves its right to use its powers to designate areas where alcohol may not be consumed in a public place to meet the Public Safety and Crime and Disorder objectives. These areas would normally be where licensed premises are located.

**14.9** The Authority will pay particular regard to relevant representations from Lancashire Constabulary to determine if the proposed measures are sufficient to reduce the risk of crime and disorder. The Authority will not normally grant an authorisation where representations have been by Lancashire Constabulary that expresses serious concern regarding the potential for crime and disorder, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

**14.10** To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from Lancashire Constabulary Licensing Unit before preparing their application (see Appendix 4 - useful contacts).

## **15.0 Public Safety / Safety of Premises**

**15.1** The Public Safety Licensing Objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in separate legislation. Accordingly, the Authority expects the standards of safety, which are evidenced by full compliance with the Health and Safety at Work etc Act 1974 (and associated secondary legislation/guidance) and Fire Safety Legislation. A voluntary commitment in the Operating Schedule to higher standards of safety, such as the use of British Standard Specification accreditation for safety measures, would be encouraged and positively considered.

**15.2** It is essential that premises covered by this Policy Statement are constructed or adapted and operated so as to acknowledge and safeguard occupants against the risks to their safety.

**15.3** Where necessary and appropriate, the Authority will expect applicants to provide evidence within the Operating Schedule to satisfactorily address public safety issues and demonstrate that those factors that impact on the standards of public safety in the operation of the premises have been considered. These may include:

- The safe occupancy capacity of the premises, in particular having regard to floor area and means of escape;
- The use of door supervisors (licensed by the Security Industry Authority);
- A facility to monitor and control capacity at the premises;
- The age, design and layout of the premises, including means of escape;
- The nature of the licensable activities provided, in particular the sale of alcohol;
- Hours of operation;
- Customer profile (age, disability etc.);
- The necessary Health and Safety and Fire risk assessments for the premises and other measures to reduce risk to public safety;
- Use of any special effect devices e.g.: lighting, pyrotechnics, lasers, smoke machines etc.;
- The number of people employed or engaged to secure the safety of all persons attending the premises or event;
- Measures for the appropriate instruction, training and supervision of those employed or engaged to secure the safety of all persons attending the premises or event;
- Where appropriate, noise exposure controls, for both staff and public, which have been detailed in accordance with the appropriate legislation;
- Arrangements to ensure that litter, generated by activities at the premises, does not present a fire hazard;
- The implications of the Health Act 2006 (smoking ban);
- Implementation of appropriate crowd management measures.

- 15.4** The Authority will work closely with the Lancashire Fire and Rescue Service to assist in assessing/determining an appropriate maximum capacity, where required, at individual venues. This will be in accordance with the service protocol issued by Lancashire Fire and Rescue Service, which is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing).
- 15.5** The Authority will pay particular regard to relevant representations from the Council's Technical Officers as well as from Lancashire Fire and Rescue Service and Lancashire Constabulary to determine if measures proposed are sufficient to ensure the safety of the public. The Authority will not normally grant an authorisation where relevant representations are made by one of these bodies expressing serious concern regarding public safety, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.
- 15.6** Where a relevant representation has been received, prior to the determination of an application for a Premises Licence or Club Premises Certificate, an applicant may be required to provide the Authority with such certificates that are necessary and/or appropriate to ensure the safety of the premises. These may include:
- Electrical inspection report certificate;
  - Fire alarm test inspection report;
  - Emergency lighting inspection and test report;
  - Fire fighting equipment;
  - Flame retardant properties of materials certificate (new premises or new upholstery);
  - Gas safety certificate;
  - Ceiling certificate (in the case of cinemas).
- 15.7** If relevant representations are received, the Authority will consider attaching conditions to licences and permissions to promote safety, and these may include conditions drawn from the pool of model conditions, which is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing).
- 15.8** To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from the Council's Health and Safety Officers (or the Health and Safety Executive, where appropriate) and the Lancashire Fire and Rescue Service before preparing their application (see Appendix 4 – useful contacts).

## **16.0 Public Nuisance**

**16.1** Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping within the vicinity of the premises.

**16.2** These concerns mainly relate to noise nuisance and/or related disturbance, light pollution and noxious smells; and due regard will be taken of the impact these may have. Where necessary and proportionate, the Authority will expect Operating Schedules to satisfactorily address these issues and provide information as to how the relevant nuisances will be prevented.

**16.3** It is essential that the measures, and the necessary controls, described in the application relate to:

- Noise transmission and escape;
- Potential noise and/or disturbance associated with patrons – for example patrons using outside areas for smoking, or awaiting entry or leaving the premises;
- Potential noise from car parking and ‘taxi’ facilities;
- The use of outside areas;
- Any light pollution risks.

Applicants are advised to seek advice from the Council’s Environmental Protection Section before preparing their application (see Appendix 4 – useful contacts).

**16.4** If relevant representations are received, the Authority will consider attaching conditions to licences and permissions to prevent public nuisance, and these may include conditions drawn from the model pool of conditions, which is maintained separately from this Policy Statement and is available from the Licensing Service using the contact details in Appendix 4, or on the Licensing Service homepage [www.westlancsdc.gov.uk/licensing](http://www.westlancsdc.gov.uk/licensing).

**16.5** In considering all relevant applications, the Authority will assess the impact of the proposed licensable activities and consider the evidence provided by the applicant, and any relevant representations, as to the adequacy of the measures proposed to deal with the potential for nuisance and disorder having regard to all of the circumstances of the application, and in particular will consider the following, if necessary and/or appropriate:

- The type of activity, its frequency and the number and nature of customers likely to attend;
- Measures taken, or proposed, to prevent noise and/or vibration escaping from within the premises, or from the use of outside areas, given the location of the premises and proximity to residential and other noise sensitive premises (e.g. hospitals, hospices and places of worship). This would include music, ventilation equipment noise and human voice, whether amplified or not;
- Measures taken, or proposed, for management and supervision of the premises and open areas to minimise unreasonable disturbance

by customers and staff arriving or leaving the premises, including the delivery of goods and services;

- The proposed hours of operation for all, or part, of the premises;
- The levels, and impact, of public transport available for customers and the likely means of public or private transport to be used;
- Means of access to the premises, including customer entrances and exits on principal pedestrian routes;
- Whether routes to and from the premises pass residential premises;
- The level of car parking on surrounding residential streets and its effects on local residents and traffic movements;
- The cumulative impact of licensed premises in an area and scope for mitigation; (See section 20.0)
- Measures taken, or proposed, to prevent queuing. Where queuing is inevitable, measures to divert queues away from neighbouring premises, or otherwise manage the queue to prevent disturbance or obstruction;
- Arrangements made, or proposed, for security lighting at the premises, and the steps the applicant has taken or proposes to take to ensure that lighting will not cause a nuisance to residents;
- Whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises, including measures taken to ensure collection of litter and disposal of litter and waste outside the premises;
- Measures to be taken to reduce drunkenness on the premises;
- If appropriate, a 'wind down' period between the end of the licensable activities and closure of the premises;
- The implications of the Health Act 2006 (smoking ban) and the potential for disturbance by patrons using external areas for smoking;
- The times at which 'bottling up' is undertaken;
- A 'last admission time' policy.

**16.6** The extent to which the above matters need to be addressed will be dependant upon the nature of the area where the premises is situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. In general, the Authority will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of public nuisance problems.

**16.7** The Authority will pay particular regard to representations from the Council's Technical Officers, as well as Lancashire Constabulary, to determine if measures proposed are sufficient to reduce the risk of public nuisance. The Authority will not normally grant an authorisation where representations are made by one of these bodies expressing serious concern regarding the potential for public nuisance, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

**16.8** Where necessary and/or appropriate, the applicant will be expected to propose practical steps to prevent nuisance to local residents and have regard to the 'Good Practice Guide on the control of Noise from Pubs and

Clubs' produced by the Institute of Acoustics and/or other suitable available guidance that is to the satisfaction of the Authority. In relation to noise from within the building, and where appropriate, the Authority will expect the applicant to have carried out sound tests to ascertain whether there is sound leakage. Noise problems may not only relate to music, but also to ventilation equipment or customers. If there is sound leakage the Authority will expect this to have been addressed in practical ways, such as:

- Keeping doors and windows closed and providing adequate mechanical ventilation, or if necessary, air conditioning;
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level;
- Installing soundproofing measures to contain sound and vibration.

**16.9** In premises where customers leave the premises late at night, or early in the morning, if necessary and/or appropriate, the Authority will expect the applicant to have included in the Operating Schedule such practical steps as:

- Erecting prominent notices at the exits to the premises asking customers to leave quietly and not to slam car doors;
- At appropriate times making suitable loud speaker announcements to the same effect;
- Instructing door supervisors (licensed by the Security Industry Authority) to ask customers leaving the premises to leave the area quietly;
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down;
- Improving availability of licensed hackney carriages or private hire vehicles to take customers from the premises;
- Where appropriate, requiring door staff (licensed by the Security Industry Authority) to monitor adjacent streets to assess for themselves whether there is a noise problem and how best to deal with it (having regard to only operating controls within the 'vicinity' of the premises);
- Refusing entry to people who regularly leave in a noisy manner;
- The supervision of any queues so as to keep noise and disturbance to a minimum;
- The implications of the Health Act 2006 (smoking ban) and the need to take action to control potential disturbance by patrons using external areas for smoking.

**16.10** If as part of a relevant representation, the Authority will also take into account previous noise and/or statutory nuisance complaints received by the Council's Environmental Protection Section, and any formal action taken by these Officers.

## **17.0 Children**

**17.1** The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a Premises Licence, Club Premises Certificate or Temporary Event Notice. In addition, it is an offence to permit children under the age of 16 who are not accompanied by an adult between midnight and 5am at other premises under the authorisation of a Premises Licence, Club Premises Certificate or Temporary Event Notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity at those venues. Therefore, between 5am and midnight, the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business is the consumption of both food and drink. This does not, however, mean that children should automatically be admitted to such premises.

**17.2** Access by children to licensed premises will, generally, be a matter for the licensee unless the Authority considers that conditions are required in order to promote the Licensing Objective of the “protection of children from harm”. If necessary and/or appropriate, the Authority would expect all Operating Schedules to identify the control measures to demonstrate compliance with this Licensing Objective.

**17.3** The Authority recognises Lancashire County Council Social Services Safeguarding Children's Board as being competent to advise on matters relating to the protection of children from harm.

**17.4** It is obviously not possible to properly anticipate every issue of concern that could arise in respect of children with regard to individual premises, therefore each application will be considered on its individual merits. However, where necessary and/or appropriate, applicants will be expected to demonstrate, and provide evidence that, suitable controls are in place. Such areas of particular concern in respect of children would include premises where:

- There have been convictions of members of the current staff at a given premises for serving alcohol to minors or with a reputation for under age drinking;
- There is a known association with drugs, drug taking or drug dealing;
- (Without prejudice to the controls set out in the Gambling Act 2005) there is a strong element of gambling on the premises (but not for example, the simple presence of a small number of cash prize gaming machines);
- There are entertainment or services of an adult or sexual nature; (See Section 18.0).
- There is risk of being exposed to incidents of violence or disorder;
- There is risk of being exposed to excessive noise;
- There is risk of being exposed to other specific hazards including falls from height;
- There is a risk of purchasing cigarettes from vending machines;

- The supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

**17.5** Where necessary and proportionate and taking account of the above information and the controls contained in the Gambling Act 2005, in premises where there are suitably permitted gaming machines, the Authority will expect Operating Schedules to demonstrate the measures to be taken to prevent access by children in accordance with the Gambling Act 2005. The Authority will also expect that where there is access by children, all such machines are located within sight of bar staff so to prevent their use by children.

**17.6** Licensees are not to provide alcohol to persons under the age of 18 years. However, a person (aged 18 years or over) may purchase beer, wine or cider for an individual (aged 16 or 17 years) for consumption with a table meal and where that individual is accompanied at the meal by a person aged 18 years or over. Accordingly, the Authority would support use of initiatives that aim to prevent the sale of alcohol to persons under the age of 18 years, i.e. the Lancashire Trading Standard's 'Age Check' Scheme, Challenge 21 campaign or similar.

**17.7** The Authority expects licensees to be able to demonstrate in their Operating Schedule that they have in place satisfactory arrangements to prevent sales of alcohol to children, including a proof of age scheme. The Authority recommends that the following documents should be used as proof of age:

- Passport;
- 'Photo card' driving licence;
- Identification card conforming to the Proof of Age Standards Scheme (PASS) or other identification supported by the Home Office (more information can be found at [www.pass-scheme.org.uk](http://www.pass-scheme.org.uk));
- Official ID card issued by HM Forces or a European Union bearing a photograph and date of birth of the holder.

**17.8** This Policy Statement will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. Therefore on rare occasions it may be necessary to impose a condition on a Premises Licence/Club Premises Certificate banning entry to those premises by children under the age of 18 years. Options other than a complete ban will include the following:

- Limitations on the hours when children may be present;
- Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18 years);
- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);



- Full exclusion of people under the age of 18 years from premises when any licensable activities are taking place;
- Provision of suitable signage indicating the age control policy at the premises;
- Such other condition or restriction as may be necessary and/or appropriate to achieve the Licensing Objectives.

**17.9** Where necessary and/or appropriate, the Authority will expect Operating Schedules to identify suitable measures to protect children from harm and must therefore demonstrate that those factors, which impact on harm to children, have been considered. In addition, the Authority may expect Operating Schedules to demonstrate what measures are in place to ensure adequate staff training on licensing legislation relating to children in licensed premises.

**17.10** Where necessary and/or appropriate, the Authority will also expect the holder of the relevant Premises Licence or Club Premises Certificate to demonstrate how they intend to provide for the supervision of children as customers and as performers providing regulated entertainment. Licence holders will be expected to demonstrate that consideration has been given to the welfare of children as performers. As a minimum requirement the Authority will require an adult to be nominated to be responsible for such child performers.

**17.11** In relation to cinemas and other premises used for the exhibition of films, the Authority expects that the relevant Operating Schedule will include a stipulation that children will be restricted from viewing age restricted films classified in accordance with the recommendations of the British Board of Film Classification (BBFC) or, where relevant, the Authority itself. Similarly, the Authority recommends that where age restricted films are exhibited, advertisements before or after the film do not publicise age restricted products that cannot be legally purchased by the young persons watching the film.

**17.12** Many children go to see and/or take part in entertainment arranged especially for them, including children's film shows or school productions, and additional arrangements are required to safeguard them while at the premises.

**17.13** Where regulated entertainment is specially presented for children, the Authority will expect the following arrangements in order to control their access and egress and to assure their safety (or other similar controls where the same standards of control are achieved):

- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof;
- No child unless accompanied by an adult to be permitted in the front row of any balcony;
- No standing to be permitted in any part of the auditorium during the performance.

**17.14** Where relevant representations are received in respect of premises holding regulated entertainment for persons under 18 years, the Authority may require such persons working with children to undergo an enhanced Criminal Records Bureau check before they are appointed.

**17.15** In the event of an application for review, the Authority may apply appropriate controls up to and including revocation of any authorisation whenever children are exposed to harm or potential harm. In particular the Authority will regulate the admission of children to:

- Premises that are known to be associated with drug taking or dealing;
- Premises with a reputation for underage drinking or where there have been convictions for serving alcohol to minors;
- Premises where persons have been convicted of a relevant and or foreign offence;
- Premises where there is a strong element of gambling.

## **18.0 Entertainment / Services of an Adult or Sexual Nature**

**18.1** Where the activities proposed under any Premises Licence/Club Premises Certificate include those of an adult or sexual nature, the Authority would expect applicants to take into account the increased risk to the Licensing Objectives.

**18.2** The Authority will have particular regard to the location of the premises when considering applications involving entertainment / services of an adult or sexual nature.

**18.3** Where the Authority considers applications for such activities it will have regard to the following:

- Control measures to ensure that children are not admitted to the premises;
- Control measures to prevent children and others from observing such activities;
- Adequate reference of the application to the 'public nuisance' and 'crime and disorder' Licensing Objectives;
- The location of the activities within the premises and proximity to customers;
- The provision of suitable prominent signage stating no admittance to those under the age of 18 years old;
- Any suitable measures to promote positive health messages related to the licensable activity;
- No external advertising of the activity either on the premises or in the vicinity of the premises.

## **19.0 Licensed Operating Hours**

- 19.1** The Authority recognises that longer licensing hours with regard to the sale/supply of alcohol are important to ensure any concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other areas, which could lead to disorder and disturbance. So in determining licensing hours, consultation will be given to the individual merits of an application.
- 19.2** The Government and this Authority want to ensure that licensing hours should not inhibit the development of the evening and night time local economy, which are important for investment and local employment; and are attractive to tourists whilst providing customers with greater choice and flexibility.
- 19.3** The Authority considers that shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises when the retail outlet is open for shopping except where Lancashire Constabulary have made a relevant representation identifying a particular outlet as the focus for disorder and/or disturbance. In such circumstances, the Authority will consider a restriction on opening hours as one mechanism of combating such problems.
- 19.4** The Authority considers that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as ambient noise levels will be lower. (See section 16.0)
- 19.5** When considering applications for licensed hours, the Authority will take the following into account:
- The nature of the area where the premises are located;
  - The size, nature of operation and clientele at the premises;
  - Whether licensable activities are likely to cause adverse impact, especially on local residents, and whether appropriate measures will be put in place to prevent any adverse impact. The Authority may decide to impose such controls or recommend best practice as voluntary controls;
  - Whether there will be any increase in the cumulative adverse impact from these or other similar activities on the area; (See Section 20.0)
  - The arrangements to ensure adequate availability of taxis and private hire vehicles and other public transport;
  - Whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents.

## **20.0 Cumulative Impact**

**20.1** The Authority will not seek to limit the number of licensed premises that will be permitted because the Authority considers that there are already enough licensed premises to satisfy the demand. This is not a matter for this Policy Statement - it is a commercial decision.

**20.2** However, the cumulative impact (i.e. the potential impact) of licensed premises on the promotion of the licensing objectives is a proper matter for the Authority. Its conditions may only relate to matters, which the licensee can be expected to control and these are likely to relate to the premises themselves and the immediate vicinity. In areas where the number, type and density of premises selling alcohol are unusual, serious problems of nuisance and disorder may sometimes arise, or begin to arise, outside or some distance from licensed premises. Where this occurs it has been described as the cumulative effect of increasing the capacity of all the premises taken together. It is therefore possible that the impact on the surrounding areas by the behaviour of customers taken together is greater than the usual impact from customers of individual premises.

## **21.0 Saturation Controls**

- 21.1** The Authority can receive representations from a Responsible Authority or an Interested Party that the cumulative effect of new licences is leading to an area becoming saturated with premises making it a focal point for large groups to gather in and circulate away from the licensed premises themselves, and that this is creating exceptional problems of disorder and/or nuisance over and above the impact of the individual premises. The Authority may therefore consider the question that, if it were to grant (or vary) further Premises Licences/Club Premises Certificates, would this undermine one or more of the Licensing Objectives. However, the Authority will address cumulative impact in the context of the individual merits of the application.
- 21.2** The Authority will, in such circumstances, not impose quotas that restrict the consideration of any application on its individual merits in which seek to impose limitations on trading hours in particular areas.
- 21.3** Where suitable demonstrable evidence exists regarding concerns of crime and disorder or public nuisance, it may be necessary for the Authority to adopt a Special policy of refusing new Premises Licences and Club Premises Certificates, or refusing variations appertaining to increases in capacities or changes in operating hours, because the area is already saturated with licensed premises. Such a special policy must be in addition to and separate from this Policy Statement. When determining the need for such a policy, the Authority must receive representations based on the impact on the Licensing Objectives.
- 21.4** Notwithstanding the above comments, and due to the nature of the District, it is not currently anticipated that such a saturation policy will be required at the present time.

## **22.0 Provisional Statements**

**22.1** Where premises are being or are about to be constructed for the purpose of being used for one or more licensable activities, or are being or about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose) a person (if an individual aged 18 years or over) may apply for a Provisional Statement if they have an interest in the premises.

**22.2** Where relevant representations have been made, applications for Provisional Statements will be dealt with in a similar manner to applications for Premises Licences.

**22.3** An application for a Provisional Statement must be accompanied by a schedule of the following details:

- Details of the premises;
- The works to be done;
- Licensable activities proposed;
- Plan of the premises;
- Any such other information as prescribed by regulation.

**22.4** If voluntarily available, the Authority would find the following additional information useful:

- Whether planning consent has been granted for the application;
- Proposed times of activities;
- Proposed hours of opening;
- Where applicant wishes the licence to have effect for limited period, that effect name of proposed designated premises supervisor (where proposed to sell alcohol for consumption on or off the premises);
- Basic details as to how the licensing objectives would be promoted.

**22.5** Applicants will be required to notify Responsible Authorities and advertise their application in a similar way to the arrangements for applications for Premises Licences. Therefore, where Responsible Authorities or Interested Parties make representations, a hearing will be held. In such circumstances, the Authority will determine whether, on the basis of any representations and the provisional statement application, it would consider it necessary to:

- Attach conditions to the licence;
- Rule out any of the licensable activities applied for;
- Refuse to specify the person nominated as the premises supervisor;
- Reject the application.

- 22.6** If, on the work being satisfactorily completed, the Authority believes it would grant a Premises Licence in the form described in the Provisional Statement, it will issue the applicant with a statement which:
- Gives details of the determination, and
  - States the Authority's reasons for its decision as to the steps, if any, to take as outlined in above.
- 22.7** If a Provisional Statement has been issued and the person subsequently applies for a Premises Licence in respect of the premises (or a part of the premises or premises which are substantially the same) representations by Responsible Authorities and Interested Parties will be excluded in certain circumstances. These are where:
- The application for a licence is in the same form as the licence described in the provisional statement; and
  - The work in the schedule of works has been satisfactorily completed;
  - Given the information in the application for a Provisional Statement, the person objecting could have made the same, or substantially the same, representations about the application but has failed to do so without reasonable excuse; and
  - There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.
- 22.8** Applicants are advised that whilst there is no limit to the duration of a Provisional Statement, the longer there is a delay before a Premises Licence is applied for, the greater the potential is for representations not to be excluded due to genuine and material changes in circumstances occurring.
- 22.9** The Licence will not become effective until a date stipulated by the Authority.



## **23.0 Interim Authorities**

**23.1** Generally, a Premises Licence will remain in force for as long as the licence holder continues to operate the business, unless:

- It is specified that the licence has effect for a limited period and that period has expired;
- The licence has been surrendered;
- The licence has been suspended;
- The licence has been revoked.

**23.2** If a licence holder dies, becomes bankrupt or mentally incapable then the licence will lapse. However, if within a seven day period of such circumstances (beginning with the day after the licence lapsed) a person who had an interest in the premises or who is connected to the former holder or if the licence, gives the Authority an “Interim Authority Notice”, the Premises Licence will be reinstated for a period of two months.

**23.3** A person is deemed to be connected to the former holder of a Premises License, if:

- The person is the personal representative in the event of the holder’s death;
- In respect of someone who has become mentally incapable is acting under Section 6 of the Enduring Powers of Attorney Act 1985; or
- In the event of insolvency/bankruptcy is acting as an Insolvency Practitioner;
- Any other person prescribed by regulation.

**23.4** Interim Authority Notices must also be served on Lancashire Constabulary within the seven-day period of being served on the Authority. Where required, Lancashire Constabulary may raise an objection to the notice under the ‘prevention of crime and disorder’ Licensing Objective. The Authority will then hold a hearing to consider the objection.

**23.5** The Authority recognises the need to consider any objections in these circumstances quickly.

## 24.0 Temporary Event Notices

### *General*

**24.1** Section 100 of the Act states that the organiser of a Temporary Event must give the Authority notice of the event, which is done so by means of a Temporary event Notice (TEN).

**24.2** Section 100(7) of the Act states that the organiser must give the Authority a minimum of **10 working days notice**, at which Lancashire Constabulary may only object under the 'crime and disorder' Licensing Objective.

**24.3** However, in a significant number of cases a 10 working day notice period would not allow enough time for the organiser to liaise with Lancashire Fire and Rescue Service, Lancashire Constabulary and the relevant Council Officers to ensure that the event passes off safely with the minimum disturbance to local residents. It is therefore recommended that the Authority and Lancashire Constabulary receive all TENS at least 28 days before the planned event. This will ensure that full discussion can take place between the organiser and the other stakeholders to the event (which may include the Ambulance Service for larger events) so that the event can take place with the minimum risk of crime and disorder, public nuisance and to the health and safety of staff and customers.

**24.4** In normal circumstances, the Authority recommends that a TEN should not be served on the Authority and Lancashire Constabulary any more than 3 months before the event is due to take place. An exception is made for large or complex events where a greater period of time to adequately plan the event would be required.

**24.5** The following limitations apply to the holding of temporary events and the issue of TENS:

- The number of times a 'premises user' may give a TEN (50 times per year for a personal licence holder and 5 times per year for any other person);
- The number of times a TEN may be given in respect of any particular premises (12 times in a calendar year);
- The length of time a temporary event may last (96 hours);
- The maximum aggregate duration of the periods covered by temporary event notices at any individual premises (15 days); and
- The scale of the event in terms of the maximum number of people attending at any one time (less than 500).

*Temporary Structures*

**24.6** The Authority has adopted the provisions of Section 35 of the County of Lancashire Act 1980 which must be followed when dealing with applications relating to temporary structures.

**24.7** It should be noted that the giving of a TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

## Appendix 1: Key locations in the West Lancashire District



## Appendix 2: Glossary of terminology

Authorisation	Any licence, certificate, event or other permission defined by the Licensing Act 2003.
Entertainment Facilities	<p>are defined as:</p> <p>Facilities for enabling persons to take part in entertainment of a description falling within those mentioned above for the purpose, or for the purposes which include the purpose, of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of schedule 1 to the Licensing Act 2003 (interpretation).</p>
Frivolous representation	This matter is decided on its own merits, however these representations are categorised by a lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent to be relevant.
Hot food or hot drink	<p>is defined as:</p> <p>Food or drink supplied on or from any premises is 'hot' for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:</p> <ul style="list-style-type: none"><li>i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,</li><li>or</li><li>ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.</li></ul>
Incidental music	<p>The Authority defines this as:</p> <p>Where in certain circumstances the performance of live music, or the playing of recorded music is incidental to another activity, which is not in itself entertainment or entertainment facilities. If the volume of the live or recorded music predominates over the other activities, this would generally not be regarded as incidental.</p> <p>As the Act does not define "incidental" the Council will judge whether music of this kind is incidental to other activities on a case by case basis.</p>

Interested Party	<p>is defined as:</p> <ul style="list-style-type: none"> <li>i) a person living in the vicinity of the premises</li> <li>ii) a body representing persons who live in that vicinity</li> <li>iii) a person involved in a business in that vicinity</li> <li>iv) a body representing persons involved in such businesses</li> </ul>
Licensable activities and qualifying club activities	<p>are defined in the Licensing Act 2003 as:</p> <ul style="list-style-type: none"> <li>i) the sale by retail of alcohol</li> <li>ii) the supply of alcohol by or on behalf of a club, or to the order of, a member of the club</li> <li>iii) the provision of regulated entertainment</li> <li>iv) the provision of late night refreshment</li> </ul> <p>for those purposes the following licensable activities are also qualifying club activities;</p> <ul style="list-style-type: none"> <li>i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place</li> <li>ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place</li> <li>iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests</li> </ul>
Licensed Premises	<p>The premises, or place, where licensable activities take place under any authorisation defined in the Licensing Act 2003.</p>
Licensee	<p>A person, or other body, holding any authorisation defined in the Licensing Act 2003.</p>
Private Event	<p>The Authority defines this as:</p> <p>An event, where a licensable or other activity takes place, to which the public do not have access. Such an event would be defined as regulated entertainment, and therefore licensable, only if it is provided for consideration and with a view to a profit. For example, a charge to those attending a private event to cover the costs of the entertainment, and no other purpose, would not make the entertainment licensable, as this would not be with a view to a profit. It would be irrelevant if a profit might inadvertently be made as long as there had not been an intention to make a profit.</p>

Provision of late night refreshment

is defined as:

the provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11pm and 5am

or

at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Regulated Entertainment

is defined as:

(a) a performance of a play  
(b) an exhibition of a film  
(c) an indoor sporting event  
(d) a boxing or wrestling entertainment  
(e) a performance of live music  
(f) any playing of recorded music  
(g) a performance of dance  
(h) entertainment of a similar description to that falling with paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for the purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of schedule 1 to the Licensing Act 2003 (interpretation).

Relevant representation

A representation would only be 'relevant' if it relates to the likely effect of the grant to the licence on the promotion of at least one of the four Licensing Objectives.

For example, a representation from a local businessman which argues that his business would be commercially damaged by a new business for which an application is being made under Part 3 of the Act would not be relevant – this is a commercial matter.

However, if a representation to the effect that nuisance caused by the new business would deter customers from entering the area and the steps proposed by the applicant to control the nuisance are inadequate would amount to a relevant representation.

Repetitious  
representation

This matter is decided on its own merits, however a 'repetitious representation' would be categorised as being similar, or of a similar nature, to a previous representation which has already been decided upon.

Responsible Authority

is defined as:

- i) the Chief Officer of Police for any Police area in which the premises are situated
- ii) the Fire Authority for any area in which the premises are situated
- iii) the enforcing authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated
- iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated
- v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- vi) a body which:
  - (a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
  - (b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters
- vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated
- viii) in relation to a vessel:
  - (a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities
  - (b) the Environment Agency
  - (c) the British Waterways Board, or
  - (d) the Secretary of State
  - (e) a person prescribed for the purpose of this subsection.



Temporary Event	is defined as:  the use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place.
Vexatious representation	This matter is decided on its own merits, however vexation may arise because of disputes between rival businesses or persons.

### Appendix 3: Crime statistics

REVISED STATISTICS TO BE INSERTED

## Appendix 4: Useful contacts

Further information on West Lancashire District Council's Licensing Policy Statement or the Licensing Act 2003 can be obtained from the Public Protection and Licensing Manager using the contact details below. The Executive Manager Community Services, David Tilleray, has overall responsibility for the Licensing Service.

Paul Charlson - Public Protection and Licensing Manager  
West Lancashire District Council, Westec House, Derby Street, Ormskirk, Lancashire L39 2DQ  
Telephone: 01695 585246  
Fax: 01695 585126  
Email: [licensing.enquiries@westlancsdc.gov.uk](mailto:licensing.enquiries@westlancsdc.gov.uk)  
Webpage: [www.westlancsdc.gov.uk/licensingact](http://www.westlancsdc.gov.uk/licensingact)

Other contacts:

**Crime and disorder:**

Lancashire Constabulary  
Licensing Unit: C Division  
County Police Office, St Thomas's Road  
Chorley Lancashire PR7 1DR

Telephone: 01257 246215  
Fax: 01257 246217  
Email: [anthony.bushell@lancashire.pnn.police.uk](mailto:anthony.bushell@lancashire.pnn.police.uk)

**Health & Safety:**

Mike Tasker - Commercial Safety Manager  
West Lancashire District Council  
Westec House, Derby Street  
Ormskirk, Lancashire L39 2DQ

Telephone: 01695 585242  
Fax: 01695 585126  
Email: [mike.tasker@westlancsdc.gov.uk](mailto:mike.tasker@westlancsdc.gov.uk)

**Planning:**

West Lancashire District Council  
Development Control Service  
52 Derby Street, Ormskirk  
Lancashire L39 2DF

Telephone: 01695 577177  
Email: [plan.apps@westlancsdc.gov.uk](mailto:plan.apps@westlancsdc.gov.uk)

**Weights & Measures:**

Lancashire County Council  
(Licensing Act 2003)  
Trading Standards  
58-60 Guildhall Street  
Preston  
Lancashire PR1 3NU

**Fire Safety:**

Lancashire Fire and Rescue Service  
Fire Safety Officer - Skelmersdale Fire Station  
Tanhouse Road, Skelmersdale,  
Lancashire WN8 9NN

Telephone: 01695 723853  
Fax: 01695 731172  
Email: [skelmersdaleFireSafety@lancsfireandrescue.org.uk](mailto:skelmersdaleFireSafety@lancsfireandrescue.org.uk)

**Noise and other nuisances:**

Andrew Hill - Environmental Protection Manager  
West Lancashire District Council  
Westec House, Derby Street  
Ormskirk, Lancashire L39 2DQ

Telephone: 01695 585243  
Fax: 01695 585126  
Email: [a.hill@westlancsdc.gov.uk](mailto:a.hill@westlancsdc.gov.uk)

**Protection of children:**

Lancashire County Council  
Lancashire Safeguarding Children's Board Manager  
Room B52  
PO Box 61  
County Hall  
Preston PR1 8RJ

Information on the Licensing Act 2003 and the Section 182 Guidance is also available from:

The Department for Culture, Media and Sport  
2-4 Cockspur Street,  
London SW1Y 5DH  
Telephone: 020 7211 6200  
Email: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)  
Internet: [www.culture.gov.uk](http://www.culture.gov.uk)



**Appendix 2**  
**West Lancashire District Council**  
**Licensing Act 2003 - 1st revision of Statement of Licensing Policy**

**Consultation response analysis: consultation period 01/08/07 - 31/10/07**

Reference no.	Respondent	Para	Comments	Appraisal	Council response
001/220807	A Hill - WLDC Env Protection Mgr	16.2	Use of term 'noise nuisance' confusing with definition in EPA 1990, and should be wider to include potential disturbance and not just statutory nuisance	Justified comment, the act considers wider impact on the licensing objectives other than statutory nuisance	Para amended
		16.3	Potential patron noise arising from the smoking ban should be mentioned	Justified comment, the health act impacts upon the licensing objectives	Para amended
		16.5	Emphasis required on the smoking ban and the potential noise from patrons	Justified comment, the health act impacts upon the licensing objectives	Para amended
		16.9	Steps required to control potential noise from patrons arising from the smoking ban	Justified comment, the health act impacts upon the licensing objectives	Para amended
002/030907	E-A Broad, clerk to Parbold and Dalton PCs	App 4	Incorrect details for Dalton PC and hilldale / bispham PCs	Justified	Section amended to de-personalise to allow for future changes in PC clerks
003/070907	N Clarke - English Partnerships	...	No comments	None	None
004/120907	P Garrett - Springfield road, Aughton	8	Site visits would be useful to allow members to understand the application	Justified, members currently undertake site visits	Improved reference has been made in section 8 & 9 with regard to site visits
		8	Wording of the application notice should be clearer and be published in stipulated papers including the free paper	Not justified - LA03 regulations stipulate the content of the notice and where it should be published	None
005/011007	J Brown - Assoc of Convenience stores	17	Support use of challenge 21 campaign & use of ID to prevent underage sales	Justified	Existing reference to use of ID, however support of challenge 21 campaign added

			Test purchasing not designed to catch out retailers & partnership approach required	Not justified, requirements for test purchasing not form part of the policy document, as section 11 provides general approach to enforcement to allow for future changes. However a partnership approach is acknowledged & fostered through enforcement	None
			S182 guidance states that DPS is not required on site at all times	Not justified, this requirement is stated in the s182 guidance and does not need to be explicitly repeated in the policy	None
006/081007	F Mayock - Oak Green, Ormskirk	3.7	Should be a finite number of complaints before LA takes action - then reference made to noise complaints about a premises	Not justified, each case taken on merits, visits may be required at any stage. EP service exists for noise complaints	None
		11.1	Call out service for licensing authority - then makes reference to specific premises	Not justified, no requirement for out of hours service, however visits can be made out of hours	None
		14.5	Monitoring of problem premises - then makes reference to specific premises	Not justified, problem premises are monitored in conjunction with police & EP	None
		Gen	Reference about specific premises & ask that LA take more responsibility rather than asking for dairy evidence	Not justified - apparent confusion between the role of EP and licensing	None
007/091007	L Le Clercq - BB&PA	11	Welcome risk based approach to enforcement & seek to promote Hampton principles	Noted - no implications for policy however 11.1 amended to emphasise risk based approach	Para 11.1 amended
		17.7	Confusing - between different types of card as some have been discontinued	Justified, paragraph is confusing in line with current standards	Para amended with current standards
		App3	Welcome high levels of prosecutions by Lancs. constabulary	Noted - no implications for policy	None
		App4	Wish to be consultee	Not justified, BB&PA already a consultee	None
		Gen	Several general statements required by the legislation	Noted - no implications for policy	None
008/161007	D Herne Lancs. PCT	14	Recommend best bar none as good practice	Noted - already stated in 14.6	None
		14	Recommend risk assessment of drinks promotions	Noted - already stated in 14.6	None
		14	All premises to display messages regarding safe drinking	Justified, message on responsible drinking valid	Para 14.6 amended

		17	Inclusion of trading stds age check scheme	Justified, age check is a useful scheme	Added to para 17.6
		17	Advertisements at age restricted films be appropriate for the audience	Justified, such requirements are appropriate	Added to para 17.6
009/171007	D Leeming LF&RS	Gen	No specific requirements that would contravene the regulatory reform (fire safety) order 2005 to avoid conflicting enforcement regimes	Noted, no such references in the policy	None
010/181007	CJ Heppenstall - 7 school house green, Ormskirk	14	Specific complaints regarding a single licensed premises	Noted, no comments on the content of the policy & therefore no implications for the policy	None
		15	Specific complaints regarding a single licensed premises	Noted, no comments on the content of the policy & therefore no implications for the policy	None
		16	Specific complaints regarding a single licensed premises	Noted, no comments on the content of the policy & therefore no implications for the policy	None
		17	Specific complaints regarding a single licensed premises	Noted, no comments on the content of the policy & therefore no implications for the policy	None
011/291007	GH Pegler - Mill Lane, Parbold	3.7	Nuisance arising from the smoking ban including the blocking of pavements etc	Noted, policy already includes implications from smoking ban in para 16.5	None
012/301007	J Scott - Lafford Lane, Upholland	3.1	Smoking ban causing potential for increased nuisance and disturbance. Need for a special outdoors licence to allow consumption outside. Also prudent for alcohol consumed outside to be in plastic containers	Noted, smoking ban implications included in para 16.5. No provision in LA03 that requires a strict outdoors licences or use of plastic (polycarbonate) glasses. However the use of outside areas and the use of safety glasses are already reference in the policy	None
013/311007	Sgt A Bushell - Lancs. constabulary	NA	No comments	Noted	None

Received after 31/10/07

014/011107	M Jones - Moss view, Ormskirk	Gen	Changes in licensing laws have been beneficial to our home. Staggered closing times has reduced large influx of people into the town and reduced noise in the early hours - no changes requested	Noted	None
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