

# **West Lancashire Borough Council**

## **Licensing Act 2003**

Version 1.2

### **Draft Statement of Licensing Policy 2011**

## Introduction to this revised draft Policy Statement

The Licensing Act 2003 (the Act) became law on 24<sup>th</sup> November 2005. Since that time West Lancashire Borough Council, like all local authorities in England and Wales, has taken the role of 'Licensing Authority' and overseen these controls.

As part of these responsibilities, the Act requires Licensing Authorities to produce a statement of Licensing Policy to provide all stakeholders with guidance on the approach that it will take under the Act. The Act also requires Licensing Authorities to review their Policy Statements at least every 3 years. Accordingly, the current Policy Statement which came into force on the 7<sup>th</sup> February 2008 will be replaced by this draft version. We therefore intend that the final version of this revised Policy Statement will be agreed by full Council on the 15<sup>th</sup> December 2010 allowing it to be published before the 7<sup>th</sup> January 2011 and coming into force on the 7<sup>th</sup> February 2011.

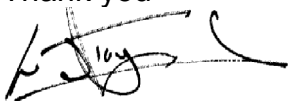
The review process requires Licensing Authorities to undertake a 12-week consultation exercise, which aims to take account of the opinions of all who could be affected by the Act. Our consultation period will last a little over 12 weeks, from the **1<sup>st</sup> August 2010** until the **31<sup>st</sup> October 2010**, and during this time all comments on this revised draft Policy Statement are very welcome.

The amendments made to this document have mainly resulted from changes in the legislative regime and available guidance. For example, this document details the use of a red/yellow card approach to review applications, following the approval of the Council's Licensing and Gambling Committee on the 8<sup>th</sup> December 2009. Furthermore, the draft Policy has been amended to take account of the new mandatory conditions, the minor variations process and the 'dis-application' of the requirement for a designated premises supervisor in community premises. Details of the Council's Multi Agency Licensing Team (MALT) as well as its Red Amber Green (RAG) approach to enforcement have also been included.

So that readers can easily see which sections of this draft Policy have been amended, all changes are highlighted in bold type. To supplement these changes, the Council's Pool of Standard Conditions will also be amended.

Every comment we receive will be carefully considered and will help shape the final document. The Policy Statement will continue to have far reaching implications, so I urge you to take the time to examine this document as it is vital that businesses and residents contribute to its content. Only with this feedback can the Policy continue to provide guidance for 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 Borough with confidence.

Thank you



William J Taylor  
Chief Executive

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## 1.0 Legal Background and Rationale

- 1.1 West Lancashire Borough 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 (Section 3.0).
- 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 (Section 8.0).
- 1.5 This Policy Statement shall be effective from the **7<sup>th</sup> February 2011** and shall remain in effect for three years; therefore this Policy Statement will be reviewed by the **7<sup>th</sup> February 2014**. 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. 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 a qualifying 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/**notifications** provided for by the Act in relation to the authorisations detailed in paragraph 2.1, including new applications, transfers, variations, **provisional statements, interim authorities 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 (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.westlancs.gov.uk/licensing](http://www.westlancs.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 licensee 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 **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.

## 4.0 The Borough 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 Borough 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 Borough is given as Appendix 1.
- 4.2 West Lancashire is an attractive area and has a good road and rail network. The Borough 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 Borough 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 Borough 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 Borough. These premises mainly comprise of public houses, members only clubs, late bars/nightclubs, off licences and restaurants. In addition, there are approximately 100 hot food takeaways throughout the Borough.**
- 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 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.
- 4.7 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.

**4.8** Accordingly, the Authority is seeking to provide an attractive Borough. By engaging and consulting with the community, the Authority is seeking to:

- Improve the quality of life for all in the Borough;
- Reduce the levels of crime and disorder in the Borough;
- Promote a strong and sustainable economy;
- Aim to reduce levels of poverty and social exclusion in the Borough by developing a more inclusive community;
- Help to improve the health and well being of the Borough's residents.

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## **5.0 Development Process / Consultation**

- 5.1** This is the third revision of this Policy Statement and, as dictated by the Act, this 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 2010 until the 31<sup>st</sup> October 2010 and the Authority has given due regard to the responses from this consultation process when formulating this 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.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing).
- 5.2** In determining this 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 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.
- 6.2** **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.**
- 6.3** **However, the Authority 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. In determining what conditions should be attached to Premises Licences and Club Premises Certificates as a matter of necessity for the promotion of the Licensing Objectives, the Authority is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature.**
- 6.4** **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. To this end, the Council has already taken the decision to hold Premises Licences for several public spaces in the Borough in an effort to support live music, dancing and theatre in the community.**
- 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.**
- 6.6** **Therefore, whilst many of the issues arising from licensable activities will be under the remit of one or more of the Responsible Authorities, the Authority will use the Multi Agency Licensing Team (MALT) (Section 11.0) to ensure that appropriate liaison arrangements are in place to ensure proper integration of local crime prevention, planning, local transport (including taxis, buses and rail), tourism , economic and cultural strategies.**
- 6.7** **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 Borough, and,
- The employment situation in the Borough and any need for investment and employment where appropriate.

**6.8** This Policy Statement also 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. When determining applications, the Authority will have regard to this legislation so as to avoid any possible indirect discriminatory impact on particular ethnic groups. Accordingly, the Council has produced a race equality scheme, which includes the Licensing Service, which assessed the likely impact of all Council services on race equality so as to avoid any adverse impact on the promotion of race equality.

**6.9** This Policy Statement also recognises the Disability Discrimination Acts 1995 and 2005; however no condition will be attached to a Premises Licence or Club Premises Certificate that conflicts or duplicates this requirement.

#### *Crime and Disorder*

**6.10** The Council has a responsibility under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to reduce crime and disorder in its area by working closely with other key statutory partners.

**6.11** The Police and Justice Act 2006 amended the Crime and Disorder Act 1998 to widen the statutory responsibilities under Section 17 to include anti-social behaviour and other behaviour adversely affecting the local environment and the misuse of drugs, alcohol and other substances.

**6.12** “Safe. Sensible. Social. The next steps in National Alcohol Strategy” was published in 2007 and outlined further national and local action to achieve long-term reductions in alcohol-related ill health and crime. Of particular importance is that all Crime and Disorder Reduction Partnerships (CDRPs) are required by law to have a strategy to tackle crime, disorder and substance misuse (including alcohol-related disorder and misuse) in their area.

**6.13** 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. The Authority will use the MALT meetings for this purpose for its duties under the Act (Section 11.0).

**6.14** The Authority has given regard to the Government's National Alcohol 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 incidents handled by Lancashire Constabulary with regard to crime and disorder within the West Lancashire Borough.

**6.15** The Health Act 2006 – workplace smoking ban  
The ban on smoking in all enclosed workplaces and public spaces came into force on 1 July 2007. The ban includes smoking in pubs, restaurants and members' clubs where bar or other staff are employed.

**6.16** The Clean Neighbourhoods and Environment Act 2005  
This legislation provides the Council with an additional power to issue a Fixed Penalty Notice to any licensed premises emitting noise that exceeds the permitted level between the hours of 11pm and 7am. Where such Notices have been served this will be communicated through the MALT and may impact upon the level of further action taken against such premises (Section 11.0).

**6.17** The Policing and Crime Act 2009  
This legislation introduced a number of measures which are relevant, or made changes, to the Act including:

- a mandatory code of practice for alcohol retailers;
- elected members of licensing authorities included as interested parties;
- reclassification of lap dancing clubs so they require a Sex Establishment Licence (Section 18.0).

#### *Planning and Building Control*

**6.18** 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.

**6.19** 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.

**6.20** 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. Therefore, prospective applicants must be aware of potential breaches of legislation arising from the decision process of both regimes. For example, if a closing time has been set for the use of premises for commercial purposes, which is different from the time set through the licensing regime, 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.

- 6.21 To preserve these arrangements, Officers involved in the planning regime will be kept regularly appraised of licensed premises within the Borough through the MALT meetings (Section 11.0).**

*The EU Services Directive*

- 6.22 The EU Services Directive (the Directive) intends to develop the single market for services by breaking down barriers to cross border trade within the EU and making it easier for service providers to set up business or offer their services in other EU countries. The Directive requires that all relevant notices and authorisations are able to be completed electronically and available via a 'point of single contact'. The Directive was implemented in the UK on 28<sup>th</sup> December 2010 and the point of single contact for the UK can be accessed via 'Businesslink' [www.businesslink.gov](http://www.businesslink.gov).**
- 6.23 Although only regulated entertainment is a 'service' as defined under the Directive, the Government extended the electronic application process to all licensable activities under the Act and to all authorisations and notices with the exception of applications for, and renewals of, Personal Licences, reviews and representations.**
- 6.24 The Authority uses the Businesslink website to administer its applications. This system will send a notification to the Authority when a completed application form is available for download from the 'Electronic Licensing Management System' (ELMS). This is the day that the application is taken to be 'given' to the Authority and the application must be advertised from the day after that day (as for a written application).**
- 6.25 The process and timescales of an electronic application is no different from a written application apart from the Authority must copy electronic applications to Responsible Authorities no later than the first working day after the application is given. However, if an applicant submits any part of their application in writing, the applicant will remain responsible for copying it to Responsible Authorities.**
- 6.26 As is the protocol for written applications, the Authority will not return electronic applications if they contain obvious and minor**

errors such as typing mistakes, or small errors that can be rectified with information already in the Authority's possession. However, if this is not the case and required information is missing or incorrect, the Authority may 'hold' the application until the applicant has supplied all the required information. This effectively resets the 28 day period for determining an application and may be done any number of times until the application form is complete. The Authority will notify the applicant as quickly as possible of any missing (or incorrect) information, and explain how this will affect the statutory timescale and advertising requirements.

- 6.27** If an applicant persistently fails to supply the required information, the Authority may refuse the application and the applicant must submit a new application.
- 6.28** The Authority may also 'defer' electronic applications once if the application is particularly complicated. For example, if representations are received and a hearing is required. This allows the Authority to extend the statutory time period for the determination of the application by such time as is necessary, including, if necessary, arranging and holding a hearing. The Authority will ensure that applicants are informed as quickly as possible of a decision to defer and the reasons for the deferral.
- 6.29** Plans, for written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is 'clear and legible in all material respects', i.e. they must be accessible and provide sufficient detail for the Authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

## **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 Sub-Committee(s) 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 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 summaries 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 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**

Matter to be dealt with	Delegated authority to:	
	Committee / Sub-Committee	Executive Manager Community Services
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	-
<b>Application for minor variation</b>	-	<b>All cases</b>
<b>Application from a Community Premises to remove the requirement for Designated Premises Supervisor</b>	<b>If a Police objection is made</b>	<b>All other cases</b>



## **8.0 Hearings**

### *General*

- 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. The details of the specific Hearing will be provided in the format of a report to the Licensing Sub-Committee (or Licensing and Gambling Committee) which will contain all the relevant information to the case. Copies of this report will be provided to all parties to the Hearing.
- 8.2** Each case will be determined on its individual merits and the Authority will 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 Sub-Committee (or Licensing and Gambling Committee) will conduct a quasi-judicial consideration of the application and relevant representations. Members of the Licensing Sub-Committee (or Licensing and Gambling Committee) will carefully consider their position should they be requested to hear a 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.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing).
- 8.5** Whilst the Licensing Sub-Committee (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 Sub-Committee (or Licensing and Gambling Committee) will be accompanied with clear reasons for the decision, having regard to the Human Rights Act 1998, the Licensing Objectives and all other relevant legislation.
- 8.7** The decision of the Licensing 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.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing).

#### *Site visits*

**8.8** Site visits will normally be made to the premises concerned (and any relevant locations) where the following applications have been submitted:

- New application for a Premises Licence and/or Club Premises Certificate;
- Application to Review a Premises Licence and/or Club Premises Certificate.

**8.9** Site visits will not normally be conducted for any other application or authorisation. 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.

**8.10** The Members of the Licensing and Gambling Committee (or Sub-Committee thereof) that will hear the application will conduct the 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.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing).

## *Representations*

- 8.11** 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.
- 8.12** Representations will be determined on their own merits as to whether they are considered to be relevant, frivolous, vexatious or repetitious.
- 8.13** Representations must be received in writing at the Licensing Service office (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.
- 8.14** 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.
- 8.15** **The content of each representation will form part of a report to the Licensing Sub Committee (or Licensing and Gambling Committee). Responsible Authorities and/or Interested Parties must note that such reports are public documents and therefore subject to public scrutiny. Any matters of a confidential nature should be considered carefully. The Authority will remove any personal information from its reports; however the specific details of all representations must be given to the applicant, including the name and address of each representation.**

## 9.0 Reviews

### *General*

- 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. Where such warnings have been issued by any Responsible Authority, these will be discussed at the MALT meetings (Section 11.0) to ensure that the Authority, as well as the other Responsible Authorities, are aware the issues. 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 a Responsible Authority or Interested Party 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.**

### *Red/Yellow Card Scheme*

- 9.6** **At a review Hearing where it is found that the premises has failed to promote one or more of the Licensing Objectives, the Authority may issue either a yellow or red card. This approach provides the Premises Licence/Club Premises Certificate holder a formal opportunity to reform, as a 'yellow card' would involve the imposition**

of tough conditions (if proportionate to the identified problems) together with the warning that if a further review is necessary and matters are found to have not improved, the Premises Licence/Club Premises Certificate would be revoked – a ‘red card’. However, if the issues raised at the review Hearing are of such a serious nature, the Authority may be forced to consider revocation without the issue of a yellow card.

**9.7** The aim of this approach is to further emphasise the punitive nature of the review process by sending a clear message to Premises Licence/Club Premises Certificate holders, and the public, that the Authority will take action against those who act contrary to the Licensing Objectives and the law.

**9.8** However, the Authority is more than aware that the revocation of a Premises Licence/Club Premises Certificate can often effectively kill the business, particularly if it is focused on retailing alcohol. This means that not only does the business suffer, but most people working at the premises will lose their livelihoods, many of whom would be entirely innocent of any wrongdoing. There is also an impact on those who indirectly rely on income from the premises, such as food suppliers and cleaning contractors. Furthermore, the closure of a premises could deprive some sections of the community of their local shop and/or restrict local consumer choice. The Authority is acutely aware of this impact and will not take action unless it is necessary and proportionate to do so.

**9.9** The Authority is aware that significant impact of revocation could lead to a reticence for Responsible Authorities to review a Premises Licence/Club Premises Certificate. However, the Authority will not expect Responsible Authorities to negotiate additional voluntary conditions with problem premises against the threat of review. Whilst this may be a reasonable approach in the short term, it can lead to the risk that some premises may not be dealt with as firmly as necessary. Such voluntary agreements are not visible to the public and lessen the deterrent effect on other premises.

**9.10** Accordingly, where practicable, if a Reasonable Authority wishes to review any Premises Licence/Club Premises Certificate, it must first raise the matter at a meeting of the MALT at which time the individual merits of the proposed review application will be discussed. Through the MALT, Responsible Authorities will be encouraged to propose suggested conditions which are designed to combat the identified problem.

*‘Yellow Card’ – first review Hearing*

**9.11** Where the Authority is satisfied that action is appropriate, based on the individual merits of the review application and the evidence submitted at the review Hearing, a yellow card may be issued. This will effectively put the premises on probation. The premises are put on notice that the next offence and/or breach would mean an automatic second intervention – a ‘red card’.

- 9.12** A yellow card may also be supplemented by:
- Additional condition(s), which will be tailored to the nature of the problem and the type of premises.
  - Removal of Designated Premises Supervisor
  - Suspension of the licence for between 1 day and 3 months
  - Restriction of trading hours and/or licensable activities
  - A clear warning that if a further review application is heard by the Authority on a similar matter it will give rise to a presumption of revocation.
- 9.13** The Authority will not issue physical ‘cards’, however the Authority will ensure that any yellow card is highly visible in the community. Therefore, as part of the Authority’s decision on first review, it will impose a licence condition requiring the premises to display a visible notice at the premises detailing the outcome of the review and the warning it has been given. The Authority shall prepare the notice and affix the notice on the premises. The notice shall be displayed in a prominent position on the premises where it can be conveniently read from the exterior of the premises. The Authority may also publicise the decision as a deterrent to other premises.
- ‘Red Card’ – second/subsequent review Hearing*
- 9.14** In the absence of improvement at any given premises following the first review, Responsible Authorities should seek another review. Again this matter will be discussed within the MALT as the impact against the premises is likely to be severe.
- 9.15** Where the Authority is satisfied that there has been a lack of improvement and action is appropriate based on the individual merits of the review application and the evidence submitted at the review Hearing, a red card may be issued and the Authority will seek to revoke the licence. The Authority will then publicise the decision as a deterrent to other premises.

## **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**

### *General*

- 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.
- 11.2** Where the Authority considers enforcement to be necessary, any such action 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 make arrangements to monitor premises and take appropriate enforcement action 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.

### *Multi Agency Licensing Team (MALT)*

- 11.4** The coordination of its duties under the Act requires the Authority to maintain close, and regular, liaison with Responsible Authorities. The MALT has been established for this purpose and is coordinated by the Authority. All Responsible Authorities are represented at the MALT, which meets approximately every 8 weeks (or more frequently if required).
- 11.5** The MALT ensures that a coordinated and proactive approach to the issues arising from licensable activities can be formulated and delivered. This is conducted on a priority 'Red/Amber/Green' (RAG) basis. Lancashire Constabulary control and compile the 'RAG Report' which details those premises that have been identified as presenting a risk to the Licensing Objectives from the perspective of one or more MALT members. Premises categorised as 'amber' are subject to increased monitoring and MALT members may conduct more frequent visits to such premises. This affords the Premises Licence holder and/or Designated Premises Supervisor (DPS) sufficient opportunity, as well as support, to address the problems. Should the risks to the Licensing Objectives be sufficiently serious and/or the Premises Licence holder and/or DPS do not take the necessary action to address the problems, the premises will be categorised as 'red'. These premises will be subject to close scrutiny and a coordinated approach to enforcement devised between the appropriate MALT members. Such premises may also be the subject of further action taken by any Responsible Authority outside of the licensing regime and/or be the subject of a review application.



- 11.6 This approach ensures an efficient and proportionate deployment of resources engaged in enforcing relevant legislation within licensed premises, as only problem and/or high-risk premises are targeted.**
- 11.7 However, the role of the MALT is not solely focused upon enforcement activity. It also sees the promotion and encouragement of best practice within the industry as being fundamental in the development of responsibly managed licensed operations. It will carry out this objective through various initiatives, including the ACE (Alcohol Certificate of Excellence) Awards.**

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## **12.0 Personal Licences**

- 12.1** A Personal Licence is granted to an individual that authorises the sale and 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 Borough of West Lancashire. All Personal Licences granted by the Authority must also be renewed with the Authority, until the Personal Licence lapses, is surrendered or 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 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 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 (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.

### *Mandatory Conditions*

**13.5** **Where the Act provides for a mandatory condition to be included, the Authority will include that condition on the authorisation.**

**13.6** **Designated Premises Supervisor (DPS)**  
The main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified for the premises where a Premises Licence is in force. That person will normally have been given day to day responsibility for running the premises by the Premises Licence holder. Where a Premises Licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no DPS has been specified in the licence or at a time when the DPS does not hold a Personal

Licence or their licence has been suspended. A DPS or any other Personal Licence holder does not have to be present on the premises at all times when alcohol is sold. However, the DPS and the Premises Licence holder remain responsible for the premises at all times including compliance with the terms of the Act and conditions attached to the Premises Licence.

#### **13.7 Authorisation by Personal Licence holders**

Every supply of alcohol under a Premises Licence must be made or authorised by a person who holds a Personal Licence. Whilst in most instances this will be the DPS, this does not require the presence of the DPS or any other Personal Licence holder on the premises at all material times. Similarly, the fact that every supply of alcohol must be made under the authority of a Personal Licence holder does not mean that only Personal Licence holders can make sales or that they must be personally present at every transaction. A Personal Licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible Personal Licence holder will not be able to escape responsibility for the actions of anyone authorised to make sales. The following factors should be relevant in considering whether or not an authorisation has been given:

- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
- the authorisation should have specified the acts which may be carried out by the person being authorised;
- there should be an overt act of authorisation, for example, a specific written statement given to the individual being authorised; and
- there should be in place sensible arrangements for the Personal Licence holder to monitor the activity that they have authorised on a reasonably regular basis.

**13.8** It is recommended that Personal Licence holders give specific written authorisations to individuals that they are authorising to retail alcohol.

**13.9** Whilst the DPS or a Personal Licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the Premises Licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

#### **13.10 Exhibition of Films**

Where a Premises Licence or Club Premises Certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under Section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification – BBFC) or by the Authority.

### **13.11 Door Supervision**

When a condition is included in a Premises Licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in Section 21(3)(a) by reference to the Private Security Industry Act 2001), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority (SIA) under that Act, or be entitled to carry out that activity by virtue of Section 4 of that Act. Conditions attached by virtue of Section 21 of the Act (as amended by the Violent Crime Reduction Act 2006) will only relate to individuals carrying out security activities defined by Section 21(3)(a) of the Act, and therefore will only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the Private Security Industry Act 2001 applies (certain manned guarding activities) and which is licensable conduct within the meaning of Section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and Section 21 should not be used in relation to any such activities.

### **13.12 Irresponsible Promotions**

Where a Premises Licence or Club Premises Certificate authorises the sale/supply of alcohol (not including where the licence or certificate authorises the sale by retail or supply of alcohol only for consumption off the premises), it must contain a condition that the Premises Licence holder and/or DPS (or relevant Committee in the case of a Club Premises Certificate) shall take all reasonable steps to ensure that no irresponsible promotions are carried out, arranged or participated in at the premises. An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:

- games or other activities which require or encourage, or are designed to require or encourage, individuals to:
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in Section 159 of the Act);
- provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

- provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
  - (i) the outcome of a race, competition or other event or process, or
  - (ii) the likelihood of anything occurring or not occurring;
- selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner

**13.13 Dispensing Alcohol Directly Into the Mouth**

Where a Premises Licence or Club Premises Certificate authorises the sale/supply of alcohol (not including where the licence or certificate authorises the sale by retail or supply of alcohol only for consumption off the premises), it must contain a condition that the Premises Licence holder and/or DPS (or relevant Committee in the case of a Club Premises Certificate) shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

**13.14 Free Tap Water**

Where a Premises Licence or Club Premises Certificate authorises the sale/supply of alcohol (not including where the licence or certificate authorises the sale by retail or supply of alcohol only for consumption off the premises), it must contain a condition that the Premises Licence holder and/or DPS (or relevant Committee in the case of a Club Premises Certificate) shall ensure that free tap water is provided on request to customers where it is reasonably available.

**13.15 Age Verification Policy**

Where a Premises Licence or Club Premises Certificate authorises the sale/supply of alcohol, it must contain a condition that the Premises Licence holder and/or DPS (or relevant Committee in the case of a Club Premises Certificate) shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

**13.16 Alcohol Measures**

Where a Premises Licence or Club Premises Certificate authorises the sale/supply of alcohol (not including where the licence or certificate authorises the sale by retail or supply of alcohol only for consumption off the premises), it must contain a condition that the Premises Licence holder and/or DPS (or relevant Committee in the case of a Club Premises Certificate) shall ensure that:

- where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- customers are made aware of the availability of these measures.

#### *Minor Variations*

**13.17** Only the prescribed processes contained in the Act may be used to amend or alter any part of a Premises Licence or Club Premises Certificate.

**13.18** However, a minor variation application can be submitted to amend any aspect of an existing Premises Licence or Club Premises Certificate where the proposed change would not adversely impact upon the Licensing Objectives. Whilst the Authority will consider applications on a case by case basis to determine whether the proposed change is “minor”, it is envisaged that four main types of minor variation application will be used:

- Minor changes to the structure or layout of premises;
- Small adjustments to licensing hours;
- Removal of out of date irrelevant or unenforceable conditions;
- Adding certain licensable activities, including live music.

**13.19** Applications must be made to the Authority in accordance with the Act. There are no exemptions to the fee that must accompany the application (i.e. an otherwise exempt school still would still have to pay) and annual fees remain unaffected.

**13.20** Whilst any applicant must place a notice on the premises which details the content of the proposed minor variation, there is no requirement to advertise the application in the local press and there are no Hearings under the minor variation process.

**13.21** There is no requirement for applicants to notify Responsible Authorities of their minor variation application. Responsible Authorities will be involved at the request of the Authority if there is any doubt whether the variation could adversely impact upon any of the Licensing Objectives and requires any specialist advice in reaching a decision. Interested Parties may still make representations based on the Licensing Objectives, but representations do not trigger a Hearing. Nevertheless, the Authority will take any representations into account in making a decision.

**13.22** The Authority has no power to impose conditions; only conditions volunteered by the applicant can be added to the licence under the

minor variations procedure. The determination is therefore either to grant or to refuse the application.

- 13.23** If the Authority refuses an application it will provide the reasons for doing so. Applications that have been rejected can then be the subject of a full variation application or of a revised minor variation application. A minor variation refusal does not affect any subsequent variation application in respect of the same premises.

*'Dis-application' of DPS in Community Premises*

- 13.24** The Act stipulates that all Premises Licences governing the sale of alcohol must possess mandatory conditions requiring the premises to have a DPS and for all sales of alcohol to be made or authorised by a person who holds a Personal Licence.

- 13.25** "Community" premises can apply to have these mandatory conditions removed from their Premises Licence. This change will enable community premises to operate without a DPS and for sales of alcohol to be made on such premises without the authorisation of a Personal Licence holder.

- 13.26** Applications must be made to the Authority in accordance with the Act and can be made either as part of a new Premises Licence application or by existing Premises Licence Holders. Community premises are not automatically entitled have these mandatory conditions removed and must therefore apply. No other conditions can be removed from the Premises Licence under this process.

- 13.27** As part of any application, the Authority will expect the management committee/board of the premises to set out how the premises is managed, its committee structure (including the names of committee members) and how the supervision of alcohol sales is to be ensured in different situations, as well as how responsibility for this is to be determined in individual cases and reviewed within the committee procedure in the event of any issues arising.

- 13.28** The Authority must be satisfied that arrangements for the management of the premises by the committee/board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises. Where arrangements are not clear, the Authority will ask for further details to confirm that the management committee/board is properly constituted and accountable before taking a decision on whether to grant the application.

- 13.29** Once granted, the management committee/board will remain as the Premises Licence Holder and will be collectively responsible for ensuring compliance with licence conditions and the law.

- 13.30** In exceptional circumstances, Lancashire Constabulary can object to such a request on the grounds of crime and disorder, issuing a notice seeking the refusal of the application to include the new mandatory condition. A Hearing will then be held in order to



determine the application. Both the applicant and Lancashire Constabulary may appeal this decision if minded to do so. The remaining Responsible Authorities do not have the right to issue a notice seeking refusal, but can seek reinstatement of the mandatory conditions through a review of the licence.

- 13.31 The following Sections of this Policy aim to provide guidance on the Licensing Objectives and are indicative of the Authority's considered view.

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## **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 Borough, 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 in 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 ‘ACE Award’ 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.westlancs.gov.uk/licensing](http://www.westlancs.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. **At present, no such areas have been designated.**

**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 made by Lancashire Constabulary that express 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 (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.westlancs.gov.uk/licensing](http://www.westlancs.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.westlancs.gov.uk/licensing](http://www.westlancs.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 (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 (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.westlancs.gov.uk/licensing](http://www.westlancs.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; (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 dependent 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 is entertainment or services of an adult or sexual nature; (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 sell or supply 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.

**17.7** **Furthermore, Premises Licences and Club Premises Certificates that authorise the supply of alcohol must contain the condition that an age verification policy is in place (refer to paragraph 13.25). 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 such an age verification policy. 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. The following documents would comply with the requirements contained in paragraph 13.25:**

- 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.

### *Sexual Entertainment Venues*

**18.4** **Section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs and similar venues into a new category of Sex Establishment called a 'Sexual Entertainment Venue' (SEV) and gives Local Authorities in England and Wales the power to regulate such venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Paragraph 2A has been added to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to widen the definition of a 'Sex Establishment' (i.e. sex shops and sex cinema) to include an SEV and 'relevant entertainment'.**

**18.5** **These powers also amend the Act to ensure that premises for which an SEV licence is required, or held, do not also require a Premises Licence, Club Premises Certificate or Temporary Events Notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the Act. However, if the premises also provide licensable activities that are not relevant entertainment, they will nevertheless continue to require the relevant authorisation under the Act.**

## **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** **This Authority wants 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 crime, 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 (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 (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, it is not currently anticipated that such a saturation policy will be required.**



## **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 the applicant wishes the licence to have effect for a limited period, that period;
- The name of the proposed Designated Premises Supervisor (where the sale or supply of alcohol is proposed);
- 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 a genuine and material changes in circumstances.

**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**

### **24.1 General**

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).

### **24.6 Temporary Structures**

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 Borough

*[insert location map]*

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## Appendix 2: Glossary of terminology

Authorisation	Any licence, certificate, notice, event or other permission defined by the Licensing Act 2003.
<b>Community premises</b>	<b>To include church halls and chapels as well as community and village halls. Where it is not clear whether premises are “community” premises, the matter will be approached on a case by case basis, with the main consideration being how the premises are predominantly used. Premises such as schools and other private halls available for private hire may not be considered community premises, but the extent to which such premises are providing a facility for the community rather than members of the community for private purposes must be considered. The test is directed at the nature of the premises themselves, as reflected in their predominant use.</b>
<b>Crime and Disorder Reduction Partnership (CDRP)</b>	A group comprising the Police, the Council, the Police Authority, Fire and Rescue Authority, Primary Care Trust and civil society organisations charged with statutory duties to reduce crime and disorder in its area by working closely with each other.
Entertainment Facilities	are defined as:  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).
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

is defined as:

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:

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,

or

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.

Incidental music

The Authority defines this as:

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.

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.

Interested Party

is defined as:

- i) a person living in the vicinity of the premises
- ii) a body representing persons who live in that vicinity
- iii) a person involved in a business in that vicinity
- iv) a body representing persons involved in such businesses

Licensable activities and qualifying club activities

are defined in the Licensing Act 2003 as:

- i) the sale by retail of alcohol
- ii) the supply of alcohol by or on behalf of a club, or to the order of, a member of the club
- iii) the provision of regulated entertainment
- iv) the provision of late night refreshment

for those purposes the following licensable activities are also qualifying club activities;

- 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
- 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
- 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

Licensed Premises

The premises, or place, where licensable activities take place under any authorisation defined in the Licensing Act 2003.

Licensee

A person, or other body, holding any authorisation defined in the Licensing Act 2003.

Private Event

The Authority defines this as:

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.



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

Responsible Authority  
(continued)

- 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.

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Appendix 3: Crime and disorder statistics

***[Insert revised crime and disorder statistics]***

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## Appendix 4: Useful contacts

Further information on West Lancashire Borough 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 Borough Council, Robert Hodge Centre, Stanley Way, Skelmersdale WN8 8EE  
Telephone: 01695 585246  
Fax: 01695 585126  
Email: [licensing.enquiries@westlancs.gov.uk](mailto:licensing.enquiries@westlancs.gov.uk)  
Webpage: [www.westlancs.gov.uk/licensingact](http://www.westlancs.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 Borough Council  
Robert Hodge Centre, Stanley Way,  
Skelmersdale  
Lancashire WN8 8EE  
Telephone: 01695 585242  
Fax: 01695 585126  
Email: [mike.tasker@westlancs.gov.uk](mailto:mike.tasker@westlancs.gov.uk)

### **Planning:**

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

Telephone: 01695 577177  
Email: [plan.apps@westlancs.gov.uk](mailto:plan.apps@westlancs.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 Borough Council  
Robert Hodge Centre, Stanley Way,  
Skelmersdale  
Lancashire WN8 8EE  
Telephone: 01695 585243  
Fax: 01695 585126  
Email: [a.hill@westlancs.gov.uk](mailto:a.hill@westlancs.gov.uk)

### **Protection of children:**

Lancashire County Council  
Lancashire Safeguarding Children's Board  
Manager  
Room B52, PO Box 61  
County Hall  
Preston  
Lancashire 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)