

**MEMBERS INTERESTS 2012**

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	<b>General</b>		
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest <b>because</b> it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/>          <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>          <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 16/7/12) or a pecuniary interest but it relates to the functions of my Council in respect of:  (i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.  (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.  (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay.  (iv) An allowance, payment or indemnity given to Members  (v) Any ceremonial honour given to Members  (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>	<i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/2/13 – 19/2/17)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

**'disclosable pecuniary interest'** (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

**Interest**

**Prescribed description**

Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;*

*"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;*

*"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;*

*"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;*

*"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;*

*"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

**'non pecuniary interest'** means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

**'a connected person'** means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

**'body exercising functions of a public nature'** means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

**NB** Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

## LICENSING SUB-COMMITTEE

**HELD:26 NOVEMBER 2013**

Start: 10.40am

Finish: 1.25pm

PRESENT: Councillor Kay (In the Chair)

Councillors: Owen  
Mrs Stephenson

Officers: Principal Solicitor (Mr L Gardner)  
Senior Licensing Officer (Mrs M Murray)  
Senior Licensing Officer (Mr A Denton)  
Principal Member Services Officer (Mrs S Griffiths)  
Member Services Work Placement (Mr M Birchall)  
Environmental Health Work Placement (Mr P Garratt)

In attendance: Councillor Mrs Baybutt (Ward Councillor)  
Councillor Mrs C Evans (Ward Councillor)  
Mr T Callaghan (Owner Fifteens @ The Fox)  
Ms L Langton (Operations Manager)  
Mr. Johnson (Objector)  
Mr. Gifford (Objector)  
Ms Hale (Objector)

### 17. APOLOGIES

There were no apologies for absence received.

### 18. MEMBERSHIP OF THE COMMITTEE

There were no changes to Membership of the Committee.

### 19. URGENT BUSINESS

There were no items of urgent business.

### 20. DECLARATION OF PARTY WHIP

There were no declarations of a party whip.

### 21. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 22. MINUTES

RESOLVED That the Minutes of the meeting held on 13 September 2013 be received as a correct record and signed by the Chairman.

**23. LICENSING HEARING PROCEDURE**

The Chairman outlined the Licensing Hearing Procedure.

**24. APPLICATION FOR A VARIATION OF PREMISES LICENCE IN RESPECT OF FIFTEENS AT THE FOX, 24 ROBY MILL, UP HOLLAND, LANCASHIRE, WN8 0QF.**

Consideration was given to the report of the Assistant Director Community Services as contained on pages 149 to 228 of the Book of Reports in respect of an application for a variation of a premises licence in respect of Fifteens @ The Fox, 24 Roby Mill, Up Holland, Lancashire, WN8 0QF.

In considering this matter the Sub – Committee had regard to its Licensing Policy and the guidance issued under S. 182 of the Licensing Act. It considered the relevant Licensing Objectives on this occasion was the ‘prevention of crime and disorder’, ‘protection of children from harm’ and ‘public nuisance’.

On hearing evidence from the Applicant and Objectors the Sub – Committee:-

- RESOLVED:
- A. That the sale of alcohol shall be permitted between the hours:- Sunday to Thursday 10.00 hours to 00.00 hours and Friday and Saturday 10.00 hours to 02.00 hours.
  - B. That the Premises shall be open to the public between the hours:- Sunday to Thursday 10.00 hours to 00.30 hours and Friday and Saturday 10.00 hours to 02.30 hours.
  - C. That late night refreshment shall be permitted between the hours:- Sunday to Thursday 23.00 hours to 00.00 hours and Friday and Saturday 23.00 hours to 02.00 hours.
  - D. That recorded music shall be permitted between the hours:- Sunday to Thursday 10.00 hours to 00.00 hours and Friday and Saturday 10.00 hours to 01.00 hours.
  - E. That live music shall be permitted between the hours Sunday to Thursday 10.00 hours to 23.00 hours and Friday and Saturday 10.00 hours to 00.00 hours.
  - F. That the Premises Licence Holder will have in place a written Operating Policy relating specifically to these premises and that at all times the premises is open, the Premises Licence Holder, DPS or person in charge will ensure that all activity at the premises is carried out in accordance with this policy.

- G. That the Premises Licence Holder, DPS or person in charge shall ensure regular toilet checks are carried out and that these checks along with any actions taken will be recorded and that a record of these checks will be provided to any responsible authority representative upon reasonable request.
- H. That the Premises Licence Holder will operate and maintain the CCTV system which shall be in use during all times licensable activities are taking place at the premises and comply as follows;
- i. The system shall cover all entrances and exits from the premises, in addition to covering all internal and external areas of the premises used to supply or consume licensed products.
  - ii. The focus of the camera(s) shall be so as to enable clear identification of persons on the premises.
  - iii. The system will be capable of accurate time and date stamping recordings and retaining said recordings for at least 21 days.
  - iv. That the premises licence holder or DPS shall make footage available to a police officer or authorised officer where such a request is made in accordance with the Data Protection Act 1998.
- I. That the Premises will operate a policy that prevents the sale of alcohol to persons under 18 to the satisfaction of the police and the local authority. This policy shall state that any person who does not appear to be at least 21 years of age, will not be served unless they can produce a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS), photocard driving licence or passport
- J. That notices will be displayed where they can be clearly seen and read in the premises indicating that the premises operates a Challenge 21 policy in relation to the sale of alcohol.

K. That the following conditions be removed from Annex 2 of the premises licence:-

- The Premises shall remain open to the public on Christmas Eve from 11.30 – 01.00 and to supply alcohol and provide recorded music from 11.30 - 00.30.
- Patrons who appear to be under 18 shall provide identification to bar staff.
- A fire risk assessment shall be carried out and implemented.
- Smoke detection systems shall be operational in all public and work areas.
- Children under 18 shall not be permitted to approach the bar servery and must be off the premises by 21.00.
- The AWP machine shall be monitored to ensure children are not using it.

This is the decision of the Sub – Committee.

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CHAIRMAN

## LICENSING SUB-COMMITTEE

**HELD:21 & 27 MAY 2014**

21 May Start: 10.30am – Finish 4.00pm

27 May Start: 10.30am - Finish: 3.25pm

PRESENT: Councillor Mrs Stephenson (In the Chair)

Councillors: C Evans  
Wright

Officers: Principal Solicitor (Mr L Gardner)  
Senior Licensing Officer (Mrs M Murray) (21 May)  
Senior Licensing Officer (Mr A Denton) (21 May)  
Senior Licensing Officer (Mrs S Jordan)  
Principal Environmental Health Officer (Ms J Antrobus) (21 May)  
Environmental Protection Officer (Ms M Street) (21 May)  
Planning Appeals Officer (Ms E Woollacot)  
Member Services/Civic Support Officer (Mrs J Brown)

In attendance: Lancashire Constabulary (PS 1506 Sergeant Bushell)  
Lancashire Constabulary Licensing (Ms B Warburton)  
Lancashire Fire Authority (Watch Manager Mr A Hewitson)  
Lancashire Fire Authority (Watch Manager Mr G Wignall) (27 May)  
Ford & Warren Solicitor (Mr J G Coen)  
Punch Taverns (Mr S Lafferty)  
Mr E Knowles (Resident) (21 May)  
Mrs P Knowles (Resident) (21 May)  
Ms M Loughlin (Resident) (21 May)  
Mr D Parkinson (Resident)  
Mrs J Parkinson (Resident)

(Note: the date in brackets indicates that the person attended on that date only)

### **25. APOLOGIES**

There were no apologies for absence received.

### **26. MEMBERSHIP OF THE COMMITTEE**

There were no changes to Membership of the Committee.

### **27. URGENT BUSINESS**

There were no items of urgent business.

### **28. DECLARATION OF PARTY WHIP**

There were no declarations of Party Whip.

### **29. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**30. MINUTES**

RESOLVED: That the Minutes of the meeting held on 26 November 2013 be received as a correct record and signed by the Chairman.

**31. LICENSING HEARING PROCEDURE**

The Chairman outlined the Licensing Hearing Procedure.

**32. APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF THE TOWN GREEN INN, 17 TOWN GREEN LANE, AUGHTON, L39 6SF**

Consideration was given to the report of the Assistant Director Community Services as contained on pages 245 to 424 of the Book of Reports in respect of an application under the Licensing Act 2003 for the review of a Premises Licence in respect of Town Green Inn, 17 Town Green Lane, Aughton, L39 6SF.

In considering this matter the Sub – Committee had regard to its Licensing Policy and the guidance issued under S.182 of the Licensing Act. It considered the relevant Licensing Objectives on this occasion was the ‘prevention of public nuisance’ and ‘public safety’.

On hearing evidence from the Premises Licence Holder, Responsible Authorities and objectors the Sub – Committee:-

- RESOLVED: A. That the Premises shall be open to the public between the hours: Sunday to Thursday 11.00 hours to 23.30 hours and Friday to Saturday 11.00 hours to 00.00 hours (midnight).
- B. That the sale of alcohol shall be permitted between the hours:- Sunday to Thursday 11.00 hours to 23.00 hours and Friday to Saturday 11.00 hours and 23.30 hours.
- C. That the Committee considered due to the problems associated with the premises that under its Licensing Policy the Committee issued a yellow card warning for a period of two years. If a further review is received the presumption of that review will be to revoke the Licence.
- D. That the Premises shall display a visible notice at the Premises detailing the outcome of the review and the warning it has been given. There shall also be a notice displayed in a prominent position on the premises where it can be conveniently read from the exterior of the Premises. The notices shall be displayed for a period of two years.
- E. That Section 177A (3) and 177A (4) of the Licensing Act 2003, the right to provide Live Entertainment under Section 177A shall not apply to the Licence.



- F. That all provisions relating to the right to provide Regulated Entertainment be removed.
- G. That the conditions at Annex 2 as follows shall be removed:-
- 'An extension of 1 hour shall be permitted on the Saturday night and Sunday night of any weekend followed by a Bank Holiday Monday, Thursday prior to Good Friday and Christmas Eve and Boxing Day'.
  - Noise from music and associated sources (including D.J.s and amplified voices) shall not be audible at the nearest noise sensitive premises.
  - All doors and windows shall be kept shut during amplified entertainment.
- H. That the Designated Premises Supervisor shall be removed.
- I. That the premises shall not open to the public until such a time that the relevant Fire Authority confirms in writing to the Premises Licence Holder that the premises is fully compliant with the Regulatory Reform (Fire Safety) Order 2005. A copy of this letter is to be made available to be viewed upon request by any Responsible Authority.

(Note: The Chairman announced that the meeting be adjourned at 4.00pm on Wednesday 21 May 2014 and that it be reconvened on Tuesday 27 May 2014 at 10.30am)

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- CHAIRMAN -



**PRESENT:** Councillor Owens (Chairman)

Councillors: Cropper Oliver  
Delaney Owen  
Gibson Savage  
Griffiths Mrs Stephenson  
Mrs C Evans Sudworth  
Jones Wright  
Ms Melling

Officers: Commercial, Safety and Licensing Manager (Mr P Charlson)  
Senior Licensing Officer (Mrs M Murray)  
Senior Licensing Officer (Mr A Denton)  
Principal Solicitor (Mr L Gardner)  
Member Services / Civic Support Officer (Mrs J Brown)

**18. APOLOGIES**

Apologies were received on behalf of Councillor West.

**19. MEMBERSHIP OF THE COMMITTEE**

In accordance with Council Procedure Rule 4, the Committee noted the termination of membership of Councillors Cheetham, Kay, Pye and Wilkie and the appointment of Councillors Griffiths, Cropper, Gibson and Savage for this meeting only, thereby giving effect to the wishes of the political groups.

**20. URGENT BUSINESS**

There were no items of urgent business.

**21. DECLARATION OF PARTY WHIP**

There were no declarations of Party Whip.

**22. DECLARATIONS OF INTEREST**

Councillor Mrs Stephenson declared a pecuniary interest relating to Agenda Item 8, Licensing Act 2013 – Night Time Licensing Options, as her Daughter in Law is a Manager at a bar in the area and therefore left the Chamber before consideration of this item.

**23. MINUTES OF LICENSING SUB - COMMITTEE**

There were no Minutes to receive.

**24. MINUTES**

RESOLVED: That the Minutes of the meeting held on 4 February 2014 be received as a correct record and signed by the Chairman.

**25. LICENSING ACT 2003 - NIGHT TIME LICENSING OPTIONS**

Consideration was given to the report of the Assistant Director Community Services as contained on pages 211 to 220 of the Book of Reports, the purpose of which was to provide Members with options and an action plan to address concerns regarding night time anti-social behaviour in the Borough, including Ormskirk Town Centre.

The Commercial, Safety and Licensing Manager outlined the report and responded to questions from Members of the Committee. He also notified the Committee that he was in receipt of a letter from Norman Baker MP - Minister for Crime Prevention, dated 25 March 2014, as contained on pages 281 to 282 of the Book of Reports in response to the letter sent by the Assistant Director Community Services with regard to Early Morning Restriction Orders

RESOLVED: A. That the following options from those stated in paragraph 4.3 of the report and the associated Action Plan at Appendix 2, be approved:-

- I. Review of the Council's Licensing Policy with no additional funding.
- II. Review of the Council's Licensing Service Web Pages.
- III. Review of Licensing Fees.
- IV. Development of initiatives with Edge Hill University – That Council be asked to endorse the resolution that initiatives be developed with Edge Hill University and the Assistant Director Community Services be authorised to approach Edge Hill University with an offer of £5k match funding for the development of these initiatives.
- V. Improved taxi facilities at Edge Hill University.
- VI. Improved liaison between the licensed trade and the community.
- VII. Cumulative Impact Policy - Following the review of the Council's Licensing Policy at I above.
- VIII. Night Time Economy Study - That delegated authority be given to the Assistant Director Community Services in consultation with the Chairman and Vice Chairman of the Licensing & Gambling Committee to agree the Terms of Reference of the Study and that £5k be allocated for the delivery of this option.

- B. That the Assistant Director Community Services be instructed to implement the chosen options as listed above.

Note1: The Chairman varied the order of business in order that this item was heard last, to allow for members of the public to attend.

Note 2: Councillor Mrs Stephenson declared a pecuniary interest in this item and therefore left the Chamber at consideration of this item.

**26. HOME OFFICE CONSULTATION - FEES UNDER THE LICENSING ACT 2003**

Consideration was given to the report of the Assistant Director Community Services as contained on pages 221 to 280 of the Book of Reports, the purpose of which was to approve a response to a Home Office consultation regarding reforms to the fee structure under the Licensing Act 2003.

The Commercial, Safety and Licensing Manager outlined the report and responded to questions from Members of the Committee.

RESOLVED: That the proposed consultation response attached at Appendix 2 to the report be approved for submission to the Home Office, prior to the consultation deadline of 10 April 2014.

Note: The Chairman varied the order of business in order for this item to be considered before Agenda Item 8.

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- CHAIRMAN -





**AGENDA ITEM:**

**LICENSING AND GAMBLING  
COMMITTEE: 22 JULY 2014**

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**Report of: Assistant Director Community Services**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Paul Charlson (Extn 5246)**

**(E-mail: [paul.charlson@westlancs.gov.uk](mailto:paul.charlson@westlancs.gov.uk))**

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**SUBJECT: APPROVAL OF REVISED DRAFT STATEMENT OF LICENSING POLICY  
REQUIRED BY THE LICENSING ACT 2003**

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Wards affected: Borough wide

**1.0 PURPOSE OF REPORT**

1.1 To request that the necessary action is taken in order to publish and consult upon the revised draft Statement of Licensing Policy as required by the Licensing Act 2003.

**2.0 RECOMMENDATIONS**

2.1 That the revised draft Statement of Licensing Policy attached as Appendix 2 to this report be approved for consultation.

**3.0 BACKGROUND**

3.1 Members will be aware that the Licensing Act 2003 (the Act) became law on 24 November 2005 and since that time the Council, like all local authorities in England and Wales, has taken the role of 'Licensing Authority' and overseen these controls.

3.2 As part of these responsibilities, the Act requires Licensing Authorities to produce a statement of Licensing Policy (Policy Statement) to provide all stakeholders with guidance on the approach that it will take under the Act. Policy Statements must be reviewed at least every 5 years and so the current Policy Statement, which came into force on the 7 February 2011, will expire on 7 February 2016. However, this Committee agreed a list of 'night time licensing options' on 1 April 2014, which included that the existing Policy Statement be reviewed during 2014/15.

## **4.0 CURRENT POSITION**

- 4.1 The revised draft Policy Statement attached as Appendix 2 to this report builds upon the experience of Officers, Members, Responsible Authorities and Interested Parties. It aims to provide a more accurate, succinct and practical document that reflects the issues debated by this Committee (and Sub-Committee) since the approval of the previous Policy Statement in 2011.
- 4.2 The format of the draft Policy Statement is different from previous versions. It clearly states the expectations of this Licensing Authority and gives justification for this approach. It is therefore hoped that this will provide more reasoned guidance for applicants and licence holders, as well as underpinning the decisions made by Members and Officers.
- 4.3 For the benefit of Members, the key changes in the draft Policy Statement are:
- (i) Revised structure and layout, principally focusing on the four Licensing Objectives and Licensable Activities;
  - (ii) Clear guidance as to how the Licensing Authority expects applicants and existing authorisations holders to promote each of the Licensing Objectives;
  - (iii) Revised guidance on applications, notifications and their determination – including information on the nature and content of representations ;
  - (iv) Revised information relating to the consideration of Premises Licences/Club Premises Certificates, Personal Licences and Temporary Event Notices. This also includes the introduction of several ‘Licensing Principles’ which aim to demonstrate how the Licensing Authority will exercise its discretion when considering applications.

## **5.0 ISSUES**

- 5.1 In order for the Council to comply with its statutory duties as Licensing Authority, the draft Statement of Licensing Policy attached as Appendix 2 to this report must be approved and subjected to public consultation before being returned to Members for final approval and publication.
- 5.2 The Statutory Guidance (the Guidance), issued under Section 182 of the Act recommends that consultation on draft statements of Licensing Policy last for a minimum of 12 weeks.
- 5.3 Furthermore, Section 5(3) of the Act lists the minimum consultees whom all Licensing Authorities must contact. These are:
- Chief Officer of Police for the Licensing Authority’s area;
  - The Fire Authority for that area;
  - Those representative of premises licence holders, club premises certificate holders, personal licence holders, businesses and residents in the area.
- 5.4 The Guidance also suggests Licensing Authorities consult on a wider basis including Community Safety Partnerships, local A&E departments, Trading Standards, local tourism representatives, local performers’ representatives etc.



However, the Guidance further states that it is for the Licensing Authority to decide the full extent of its consultation and should also have regard to cost and time.

- 5.5 Therefore, if Members approve the recommendation contained in this report, it is intended that the consultation exercise will be carried out under existing delegations to the Assistant Director Community Services. The consultation will be conducted in accordance with the Guidance and will include routine press statements and use of the Council's website. The duration of the consultation period will be just over the required 12 weeks, running from the 1 August 2014 until the 31 October 2014.
- 5.6 To comply with statutory deadlines it is intended that, following consultation, the final version of the revised Policy Statement will be submitted to the Licensing and Gambling Committee for approval on the 2 December 2014 and to full Council on the 17 December 2014. This will allow the Policy to be published before the 7 January 2015, coming into force on the 7 February 2015.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 The operation of the Act has the potential to impact upon many areas within the Community. The proposal links to the 'Safer Communities, Stronger Communities', the 'Economy and Jobs' and the 'Improved Health for All' Key Objectives of the Sustainable Community Strategy.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 The contents of this report can be delivered within existing resources.

## **8.0 RISK ASSESSMENT**

- 8.1 Whilst, the Council has a legal duty to carry out the functions of the Act, it is not under a statutory obligation to review the current Policy Statement until 7 February 2016. However, the decision of the Committee outlined in paragraph 3.2 is appropriate as the content of the current Policy Statement does not accurately reflect the relevant legislation and guidance.
- 8.2 Any failure to administer a review of the Policy Statement appropriately is a breach under the Act and would render any future licensing decisions potentially unlawful. Accordingly, there is significant involvement from, and impact upon, relevant statutory bodies, the licensed trade, the public and other interested parties.

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### **Background Documents**

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

Guidance issued under section 182 of the Licensing Act 2003 – June 2013

## **Equality Impact Assessment**

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

## **Appendices**

- 1 Equality Impact Assessment.
- 2 West Lancashire Borough Council: Licensing Act 2003 - Draft Statement of Licensing Policy 2015

## Appendix 1

### Equality Impact Assessment - process for services, policies, projects and strategies

1.	<p>Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people:</p> <p><i>People of different ages – including young and older people</i>  <i>People with a disability;</i>  <i>People of different races/ethnicities/nationalities;</i>  <i>Men; Women;</i>  <i>People of different religions/beliefs;</i>  <i>People of different sexual orientations;</i>  <i>People who are or have identified as transgender;</i>  <i>People who are married or in a civil partnership;</i>  <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i>  <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p><i>No. The legislation applies equally to all relevant activities and premises.</i></p>
2.	<p>What sources of information have you used to come to this decision?</p>	<p><i>The legislation requires that all relevant activities require a licence, without exception.</i></p>
3.	<p>How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p><i>The Act requires the Council to implement its licensing policy following a period of public consultation, based on the detail of a draft policy. The final version of the policy will be approved using any comments received during the consultation period.</i></p>
4.	<p>Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:-</p> <p><i>Eliminate discrimination, harassment and victimisation;</i></p> <p><i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of people);</i></p> <p><i>Foster good relations between people who</i></p>	<p><i>No. The recommendations contained in this report apply equally to those activities required under relevant legislation.</i></p>

<i>share a protected characteristic and those who do not share it.</i>	
5. What actions will you take to address any issues raised in your answers above?	N/A.

# **West Lancashire Borough Council**

## **Licensing Act 2003 Statement of Licensing Policy 2015**

## Forward

The Licensing Act 2003 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 aim of this Policy is therefore to promote West Lancashire as a safe and healthy environment in which responsible operators can provide lawful and responsible facilities for the enjoyment of the Borough's residents and visitors.

Licensed businesses and operations are vital to the Borough and for related sectors such as retail and tourism. Accordingly, the Council is keen to encourage a diverse range of premises catering for a wide range of age groups and uses. However, the Council also recognises the problems that can be caused if licensable activities are not properly managed and premises well run.

This Policy aims to reflect the issues that have arisen in the Borough since the Act came into force. It therefore provides improved guidance for both Officers and elected Members to ensure that decisions are made in a fair and consistent manner, as well as being an invaluable tool for applicants, residents and other occupiers of property and investors.



**Councillor James Kay**  
Chairman of the Licensing and Gambling Committee

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## **1.0 Introduction**

- 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 Statement of Licensing Policy (this Policy) 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** This Policy covers all relevant provisions of the Act. The Authority is committed to working with its licensing partners and stakeholders in delivering the licensing function. Accordingly, this Policy sets out the manner in which the Authority will generally take when exercising the functions of the Act. It replaces the 2011 version and was agreed by full Council on the 17<sup>th</sup> December 2014, was published on the 7<sup>th</sup> January 2015 and came into force on the 7<sup>th</sup> February 2015. It shall remain in effect for five years and will be reviewed no later than the 7<sup>th</sup> February 2020. However, this Policy can be reviewed and revised by the Authority at any time.
- 1.4** This Policy seeks to establish sensible controls and appropriate guidance to encourage and build upon the efforts that are being made by the Council and its partners, together with the licensed trade, to help the Authority deal with issues such as anti-social behaviour, crime and disorder, irresponsible promotions, noise and other nuisance, underage sales and poor licensing practices that arise from licensable activities. This will be achieved by:
- Establishing and building upon best practice within the industry;
  - Recognising and facilitating the role of partners and stakeholders;
  - Encouraging self-regulation by licensees and managers;
  - Providing a clear basis for the determination of applications;
  - Supporting related policies and strategies of the Council: and
  - An inspection and enforcement regime targeted at premises that present a high risk i.e. those operations that have a track record of non-compliance.
- 1.5** The Authority recognises the varied nature of the licensed operations within the Borough, which differ in size, occupancy, location and clientele. The management of these operations will have a differing impact on the Licensing Objectives (Section 4.0) depending on whether the focus is on the provision of alcohol, entertainment, late night refreshment or a combination of two or more of these activities.
- 1.6** Accordingly, there is no definitive list of control measures that could (or should) be introduced by all premises. Licensed premises are assessed according to the activities they provide and the manner of their provision. Steps should be in place to appropriately address the individual risks at each premises.



**1.7** Preventing crime, disorder, public nuisance, ensuring public safety and protecting children (those aged under 18) from harm are on-going responsibilities for all those licensed under the Act. Premises operators should address the risks relating to the activities their premises provides. Failure to do so may result in the relevant authorisation being reviewed and subsequently suspended or revoked.

**1.8** The Authority does not want operators to lose their licences; it wants to see well managed premises that benefit from being able to provide the hours and the activities their customers and communities want. This means licensees should regularly consult with their local communities to inform them of the hours and activities they provide, gauging their concerns and addressing these. Licensees are encouraged to be both imaginative and proactive, seeking advice from Responsible Authorities (these are listed in Appendix 3 - useful contacts) and other local organisations that have professional advice to offer.

**1.9** Accordingly, the Authority recommends that operators:

- Read this Policy carefully – reading it indicates that the promotion of the Licensing Objectives is being taken seriously;
- Think about the activities provided, the risks from those activities and the appropriate steps to tackle them;
- Consult local residents, businesses and the Responsible Authorities to ascertain concerns or current problems;
- Undertake appropriate risk assessments and take appropriate steps to address any risks;
- Take action to put steps in place that will address risks and meet the concerns of the community;
- Consider whether a variation of the authorisation is required to ensure all necessary measures in place to meet the four Licensing Objectives. This can reassure local residents, businesses and Responsible Authorities that operators are taking their responsibilities seriously and are a valuable asset to the community;
- Licensed premises will be continually monitored on how they impact on their local communities. Where operators fail to adequately address the concerns of local residents / businesses with respect to the Licensing Objectives, their premises may have its Premises Licence or Club Premises reviewed at any time.

**1.10** This Policy also supports the Council's Corporate Priorities and in particular has close links to the following priorities:

- Protect and improve the environment and keep our streets clean and tidy;
- Combat crime and the fear of crime;
- Provide opportunities for leisure and culture that together with other Council services contribute to healthier communities.

**1.11** The Act and this Policy are not a mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the licensee. Licensing is about the management of licensed premises and activities within the terms of the Act. However, 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.

- 1.12** Nothing in this Policy 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.
- 1.13** Nothing in this Policy 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.
- 1.14** This Policy will also be kept under review. The Assistant Director Community Services will maintain an Issues Log in which all issues pertaining to this Policy will be recorded. Therefore the Authority will make revisions to this Policy at such times as it considers appropriate, for example where relevant issues have arisen, or where matters recorded in the Issues Log indicate that such a review is required.

## **2.0 The Borough of West Lancashire**

- 2.1** West Lancashire is the most southerly of the Local Authorities within Lancashire. It has a population of 110,700 (National Census 2011) and covers an area of over 34,000 hectares. The Borough has two market towns: Ormskirk and Burscough, with mainly rural parishes and villages to the north and the former New Town of Skelmersdale to the east. A map of the Borough is provided at Appendix 1.
- 2.2** There are approximately 350 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.
- 2.3** The Council receives approximately 600 complaints about noise per year, with approximately 100 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.
- 2.4** The Authority recognises that the good management of licensed businesses and the street environment within which they operate is vital to the infrastructure of the Borough and to attracting a wide range of people to work, visit or live in the Borough. However, the varied nature of the Borough means that the impact of Licensable Activities can vary. For example, the licensing issues in Ormskirk town centre can differ from those in Skelmersdale or other parts of the Borough. The Authority will expect all applicants to, where appropriate, specify the methods, precisely and clearly, by which they will promote the four Licensing Objectives and address the specific issues relating to the nature and location of the premises.

### **3.0 Development Process / Consultation**

- 3.1** This Policy has been developed after proper consultation with statutory consultees and other interested parties. A period of public consultation operated from the 1<sup>st</sup> August 2014 until the 31<sup>st</sup> October 2014 and the Authority has given due regard to the responses from this consultation process when formulating this Policy. The list of consultees is maintained separately from this Policy and is available from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing)
- 3.2** This Policy has not been developed in isolation. The Authority has given regard to the Guidance and to good practice advice issued by approved Government advisory bodies. As such, this Policy also supports the Council's Corporate Priorities.
- 3.3** Partnership working between licensing authorities in Lancashire has also enhanced the production of this Policy and will help ensure consistency in terms of both policy and enforcement where licensing boundaries meet.

## **4.0 Licensing Objectives and Licensable Activities**

**4.1** In carrying out its functions under the Act, the Authority must have regard to the Licensing Objectives, namely:

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

**4.2** Each of the Licensing Objectives is considered of equal importance for the purposes of the Act and this Policy. The Authority will expect all applicants to, where appropriate, specify the methods, precisely and clearly, by which they will promote the four Licensing Objectives. Guidance on the Licensing Objectives is available on the Government's website at [www.gov.uk](http://www.gov.uk)

**4.3** The Act covers certain 'Licensable Activities', namely:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to a member;
- The provision of 'regulated entertainment' and
- The provision of late night refreshment.

**4.4** The definition of what constitutes 'Regulated Entertainment' is complex and has been (and remains) the subject of Government deregulation. Whilst Regulated Entertainment potentially covers live or recorded music, dancing, plays, films and certain types of sporting activities, the Act provides various exemptions and restrictions on the types of activities subject to licensing. Furthermore, the Live Music Act 2012 has removed the ability of the Authority to regulate live music at certain times and in certain circumstances. It cannot be assumed therefore that a licence is required for all forms of entertainment or, even if a licence is required, that the Authority will necessarily have the power to impose restrictions or conditions on such entertainment. Guidance on Regulated Entertainment is available on the Government's website at [www.gov.uk](http://www.gov.uk) or from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing)

**4.5** Where an activity is licensable, the promotion of the Licensing Objectives is the paramount consideration for the Authority. In the absence of valid representations from Responsible Authorities or Interested Parties, all applications must be granted subject only to any prescribed mandatory conditions and such other conditions which are consistent with the Operating Schedule provided by the applicant. Where valid representations are received and maintained, the application will normally be determined at a hearing before the Council's Licensing Committee. [The term 'Licensing Committee' is used throughout this Policy, and shall be deemed to refer to the Council's Licensing and Gambling Committee, or Sub Committee thereof.]

- 4.6** The Licensing Committee will then assess whether the application would result in the Licensing Objectives being undermined to such an extent that the application should be refused or, whether it would be possible to grant the authorisation subject to such conditions as are felt appropriate by the Authority. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned and will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. 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.
- 4.7** In addressing such matters, consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The imposition of standardised conditions is prohibited as being disproportionate and burdensome.
- 4.8** 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.

#### ***Prevention of Crime and Disorder***

- 4.9** The duty of the Authority under Section 17 of the Crime and Disorder Act 1998 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. The Authority encourages relevant businesses to participate in local Pub Watch schemes or similar forums where they are set up, and where this helps secure and/or promotes the Licensing Objectives.
- 4.10** 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.
- 4.11** National and local crime statistics (Appendix 2) and research indicate that the consumption of alcohol can be a significant contributory factor to levels of crime and disorder. 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.

- 4.12** The Authority recognises that only a minority of customers will behave badly and this Policy 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 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.
- 4.13** The Authority will pay particular regard to relevant representations from Lancashire Constabulary (the Police) 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 the Police 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.
- 4.14** To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from the Police Licensing Unit before preparing their application (Appendix 3 - useful contacts).
- 4.15** The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:
- The capability of the Designated Premises Supervisor or any other person appointed to be in charge of the premises to ensure effective and responsible management of the premises;
  - Provision of sufficient numbers of staff and managerial support to run the premises effectively;
  - The training given to staff in crime prevention measures. This would include how to identify offences, how to handle potential troublemakers and defuse difficult situations, how to recognise those who are drunk and to prevent sales to those who are drunk or passing alcohol to those who are drunk;
  - Physical security features installed in the premises (i.e. location and standard of CCTV equipment);
  - Procedures for risk assessing drinks promotions and events, and the plans to minimise such risks;
  - Measures to control entry, including the employment of door supervisors licensed by the Security Industry Authority and weapon detection / search facilities;
  - Measures to address the risk of drink-spiking;
  - Measures to prevent the supply of illegal drugs, including staff training and search and entry policies (such policies also to include the banning of known offenders / targets);
  - The participation in local 'Pub Watch' initiatives (where available) and methods to share information with the Police;
  - The presence, or otherwise, of sufficient transport facilities to ensure that customers can leave the premises safely and swiftly;
  - The use of plastic bottles and glasses and/or toughened glasses;

- Provision of sufficient numbers of toilets (in accordance with the relevant British Standard), which are sufficiently lit, kept clean and well maintained / routinely inspected;
- 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;
- The implications of the Health Act 2006 (smoking ban);
- For premises licensed for late night refreshment – risk assessment of persons congregating outside the premises and the methods to address potential problems.

**4.16** In order to meet the Public Safety and Crime and Disorder objectives, the Council reserves its right to use powers under Section 13 of the Criminal Justice and Police Act 2001 to designate a Designated Public Places Order (DPPO) to address potential problems of anti-social alcohol drinking in public places. The Council also has power under the Violent Crime Reduction Act 2006 to declare an Alcohol Disorder Zone (ADZ), which would allow the Council to charge licensees for additional enforcement activity that affects all licensed premises in the designated area. At present, neither a DPPO nor ADZ has been designated.

### ***Public Safety***

**4.17** The provision of Licensable Activities may involve potential risks to the safety of the public and to persons working at the premises. Additionally, crime and disorder both inside and outside the premises may also compromise public safety. The Authority is committed to ensuring the safety of persons visiting and working in licensed premises. Accordingly, where other legislation fails to make suitable provision to ensure public safety and the Authority's discretion is engaged, the Authority will exercise its licensing functions to secure the safety of members of the public and staff. 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.

**4.18** The Authority will pay particular regard to relevant representations from the Council's Technical Officers as well as from Lancashire Fire and Rescue Service (the Fire Service) and the Police 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.

**4.19** 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), the Police and the Fire Service before preparing their application (Appendix 3 – useful contacts).



**4.20** The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:

- The safe design and construction of the premises to relevant standards;
- The age, design and layout of the premises. This would include any particular features of the premises that may cause potential problems (i.e. stairwells, fireplaces, roof terraces, uneven flooring, external areas, lighting levels / special effects devices), as well as the necessary means of escape;
- The safe occupancy capacity of the premises, in particular having regard to floor area and means of escape;
- A facility to monitor and control capacity at the premises;
- The nature and duration of the licensable activities provided, in particular the sale of alcohol;
- Customer profile (age, disability etc.);
- The use of door supervisors (licensed by the Security Industry Authority);
- Any necessary heating or cooling of the premises and access to drinking water;
- The necessary health and safety and fire risk assessments for the premises and other measures to reduce risk to public safety;
- 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 – including the response to emergencies;
- 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.

**4.21** The Authority will work closely with the Fire 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 Fire Service, which is maintained separately from this Policy and is available from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing)

### ***Prevention of Public Nuisance***

**4.22** The Authority is committed to ensuring that the operation of licensed premises does not unreasonably interfere with the personal comfort or amenity of immediate neighbours or the nearby community. The impact of night-time activity has caused some considerable concern to residential and business communities in the Borough. The Authority is able to address problems arising from the provision of licensable activities at licensed premises. However, the licensing process can only seek to control those measures within the control of the licensee and in the immediate vicinity of the premises.

- 4.23** The Guidance asserts that the prevention of public nuisance could include low-level nuisance affecting a few people living locally as well as major disturbance affecting the whole community. It may also include conduct that reduces the living and working amenity and environment of other persons and businesses in the area of the licensed premises. 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.
- 4.24** Where appropriate, the Authority will expect Operating Schedules to satisfactorily address these issues and provide information as to how the relevant nuisances will be prevented. It is essential that such measures, and the appropriate 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.
- 4.25** Applicants are advised to seek advice from the Council’s Environmental Protection Section before preparing their application (Appendix 3 – useful contacts).
- 4.26** 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. The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority’s licensing functions and ones which applicants and existing licensees need to consider:
- 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 15.0)
- 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;
- Methods to promote access to local public transport;
- 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' or waste disposal is undertaken;
- A 'last admission time' policy.

**4.27** 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.

**4.28** The Authority will pay particular regard to representations from the Council's Technical Officers, as well as the Police, 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.

**4.29** Where appropriate, applicants and licensees 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 appropriate, 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.

**4.30** In premises where customers leave the premises late at night, or early in the morning, if 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.

**4.31** 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.

#### ***Protection of Children from Harm***

**4.32** Activities associated with premises that sell alcohol or provide regulated entertainment may, in certain circumstances, give rise to concerns for the health and welfare of children (a child for the purpose of this Policy is any person under the age of 18).

**4.33** 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. The Authority will pay particular regard to representations from this organisation to determine if measures proposed are sufficient to reduce the risk to children. The Authority will not normally grant an authorisation where representations are made by this organisation expressing serious concern regarding the potential for harm to children, unless the applicant can demonstrate

compelling reasons why the application should be approved in the light of these representations.

**4.34** The Authority 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. In all other cases it will be left to the discretion of the licensee. The Authority is committed to protecting children from harm and applicants will therefore need to demonstrate how they will promote this Licensing Objective – including any necessary supervision / safeguarding arrangements and relevant staff training. Where appropriate, conditions preventing or restricting the admission of children will be imposed. The Authority will not however impose any condition that requires the admission of children to licensed premises.

**4.35** It is an offence to allow unaccompanied under 16s into primarily drinking venues. However, the Authority recognises that family friendly premises typically experience fewer problems of crime, disorder and public nuisance. The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:

- What measures have been put in place to create a safe, child-friendly environment;
- How vigilance regarding the sale of alcohol to under 18s, to those who are drunk and to those passing on drinks to under 18s / those who are drunk is maintained;
- Controls preventing those who are drunk from gaining entry to the premises and methods employed to require those who become drunk on the premises to leave;
- The specification of areas, activities and times that are suitable for children instead of merely placing restrictions on access to those areas, activities and during those times that are appropriate.

**4.36** 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 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 underage 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;
- There is entertainment or services of an adult or sexual nature. This would include controls ensuring that underage persons cannot enter the premises and the prevention of advertising (including the use of photographs or visual images) such entertainment outside or in the vicinity of the premises. It should also be noted that the Council has passed a resolution that the amendments made by

Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be adopted and shall apply to the Borough of West Lancashire. A Sexual Entertainment Venue Policy is maintained separately from this Policy. More information can be obtained from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing);

- 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.

**4.37** Where appropriate, 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.

#### *Under age / proxy sales*

**4.38** Applicants and existing licensees must have satisfactory arrangements in place to prevent underage alcohol sales. The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:

- The adoption of a well-publicised Challenge 21 policy (i.e. asking those who appear to be under 21 to produce appropriate ID proving they are over 18 before considering serving them);
- The refusal of service to those believed to be passing on alcohol to under 18s (except where over 18s are buying beer, wine or cider for 16 or 17 year olds for consumption with a table meal);
- The provision of appropriate accredited staff training on the law relating to alcohol and those aged under 18 (e.g. a 'Responsible Retailing' course);
- Methods to ensure sufficient staffing and managerial support to monitor outside areas and to make the identification of those passing on drinks to under 18s practicable;
- How instances of potential proxy sales are reported to the police;
- The use of a 'refusal book' to record details of instances where staff have refused a customer thought to be under age;
- The use of CCTV to assist the above controls;
- Where necessary, the use of an identified child 'safeguarder'.

**4.39** To ensure compliance with underage and proxy sales legislation, test purchasing initiatives will be conducted with liaison with the Police and/or Lancashire County Council Trading Standards, which will be coordinated via the Council's Multi Agency Licensing Team (MALT) (Section 14.0).

## **5.0 Integration Strategies**

### *General*

- 5.1** 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. Accordingly, there is a range of strategic influences and statutory controls which affect the licensing regime in terms of policy formulation, administration and enforcement activities. Examples of these strategies can be found in the Guidance. The Authority will seek to have an active involvement in the development and review of these and all other related Council strategies by ensuring an appropriate exchange of dialogue between the Authority and other relevant regimes. Such involvement may result in the imposition of conditions and formulation of policies supporting the relevant strategies where appropriate.
- 5.2** 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 MALT (Section 14.0) 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.

### *Planning and Building Control*

- 5.3** 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.
- 5.4** The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However, there will be overlapping issues of interest (e.g. disturbance) which will remain material considerations for planning purposes as well as being relevant in terms of the Licensing Objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for a licence/certificate to avoid any possible enforcement action.
- 5.5** Applications 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.

- 5.6** To preserve these arrangements, Officers involved in the planning regime will be kept regularly apprised of licensed premises within the Borough through the MALT meetings (Section 14.0).

*Electronic applications*

- 5.7** All applications and relevant provisions under the Act, with the exception of applications for, and renewals of, Personal Licences, reviews and representations, can be accessed at the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing) or [www.gov.uk](http://www.gov.uk)
- 5.8** 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.



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

- 6.1** 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 16 elected Members and has 1 chairman and 1 vice chairman. This Committee is further divided into Sub-Committee(s) of 4 elected Members.
- 6.2** A meeting of the full Licensing and Gambling Committee will be held when it is considered necessary to review the contents of this Policy, to comply with any requirements of the Act or to determine any other matter of relevance to the Authority.
- 6.3** 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.
- 6.4** Applications that do not attract relevant representations are determined under delegation to the Assistant Director Community Services. Table 6.8a summaries this delegation procedure.
- 6.5** Decisions on whether a representation, or grounds for Review of an existing authorisation, is relevant, repetitious, frivolous or vexatious are delegated to the Assistant Director Community Services. Accordingly, where a representation is considered to be irrelevant, repetitious, frivolous or vexatious, the Assistant Director Community Services will inform the author of the representation in writing and give reasons for this decision. The Assistant Director Community Services will also inform the applicant and/or licensee when such a decision is taken.
- 6.6** In exceptional circumstances it may be appropriate 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.
- 6.7** In exceptional circumstances it may be appropriate 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.
- 6.8** All decisions made by either the Licensing and Gambling Committee, a Sub-Committee thereof or the Assistant Director Community Services will be confirmed in writing to the applicant and any person who has made a relevant representation forthwith.

**Table 6.8a - delegations**

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

## **7.0 Applications, notifications and determination**

- 7.1** The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations and further advice on these processes is available from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing). Failure to comply with the statutory requirements may result in an application or notice being invalid.

### *Representations - The Power to 'Have Your Say'*

- 7.2** Making a comment relating to any application or notification is called a 'representation', but not everyone has the right to make a representation. There is a prescribed period from the time the Authority receives an application for representations to be received. This is usually 28 days but varies depending on the type of application under consideration. Representations can include positive / supportive comments as well as objections.
- 7.3** Responsible Authorities (Appendix 3 – useful contacts) and Interested Parties (including members of the public, businesses or their representatives) can submit a representation whenever the Authority receives an application for a new licensed premises, for a full variation to an existing authorisation or an application for a Review. In addition, certain Responsible Authorities (but not Interested Parties) can also make representations on other types of applications and notifications such as applications for Personal Licences or notifications for temporary events. If no representations are received, the Authority must grant the application as applied for (including where appropriate any conditions volunteered by the applicant,) and events become authorised.
- 7.4** Applications where only the Police have a right to make representations on limited grounds (for example transfer of licences, transfer of Designated Premises Supervisor etc.) are not covered by this Policy but will be determined on their own individual facts.
- 7.5** All representations should relate to the likely effect of the application 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. Therefore, it is important to note that Responsible Authorities or Interested Parties who submit representations cannot expect their views to be automatically taken into account. Representations must be based on the requirements of the law before they can be accepted as relevant. Responsible Authorities or Interested Parties (and members of the public in particular) have a vital role in the licensing process, but this cannot be in contradiction with legislation, natural justice and decided case law.
- 7.6** Representations must be made in writing to the Licensing Service (Appendix 3 – useful contacts). Representations may be made by email as long as the email contains the name and address of the person (or body) making the representation.

- 7.7** Representations cannot be made anonymously, even if a local MP, councillor or organisation etc. is making the representation on behalf of another. This is because the Authority needs to be satisfied that the representation is not irrelevant, frivolous, vexatious or repetitious. It is also important that an applicant is able to respond to a representation; for example, if they believe that it isn't a 'relevant' representation. If Interested Parties are concerned about possible intimidation or other repercussions, they could consider asking the Police or another appropriate Responsible Authority to make a representation on their behalf.
- 7.8** Representations will be determined on their own merits as to whether they are considered to be relevant, frivolous, vexatious or repetitious.
- 7.9** The content of each representation will form part of a report to the Licensing 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.

*Representations submitted on behalf of others (including MPs, Councillors and community / residents associations etc.)*

- 7.10** It must be clear who has submitted any representation. Community / residents associations may submit a representation behalf of its members; however, these must state the names and addresses of all persons who wish to be party to the representation. Accordingly, each person who wishes a representation to be submitted on their behalf should make their request in writing so that the individual / organisation can demonstrate the origin of the representation and the authority to address the Authority on their behalf. It will be a matter for the MP, Councillor, community / residents association etc. to decide whether they should agree to such requests. However, it should be noted that Councillors who are part of the Licensing Committee hearing a specific application will not be able to enter into discussions with any person about that application, outside of the formal hearing.

*Content of representations*

- 7.11** Any representation must provide the following information as a minimum:

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

- 7.12** There is no requirement to produce a recorded history to support a representation, which of course would not be possible for new premises. However, it will assist the Authority if representations are specific to the premises and evidence based. The Authority must be satisfied that there is an evidential and causal link between the

representations made, and the effect on the Licensing Objectives, in order to place any restrictions upon any premises.

- 7.13** Whilst Regulations allow for further information to be put forward at any subsequent hearing, that material must relate to the initial representation. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded.
- 7.14** In the case of Reviews, it should be noted the evidence must be specific to the given premises. For example, evidence regarding the nuisance caused by patrons returning home would need to prove that this problem came from the premises in question and the reason that patrons are causing a nuisance is that the licence holder was not implementing suitable controls.
- 7.15** With regard to applications to vary existing authorisations, the Authority can only consider the part(s) of the authorisation proposed to be amended. Accordingly, any representations that do not relate to the variation, or are not linked some way to what the authorisation holder is asking to be changed, will be considered irrelevant and the representation dismissed.

#### *Determination of applications – Licensing Principles*

- 7.16** The matters which can be taken into account once the Authority's discretion has been engaged vary depending on the type of application/notification concerned. These matters are discussed in Sections 8.0, 9.0 and 10.0. The text in bold type within each section states the Authority's discretionary rules in relation to these matters – these are called 'Licensing Principles'. The reason for each Principle is shown in bold italics.
- 7.17** Whilst applicants are not obliged to meet any of the Licensing Principles in their Operating Schedules, they may find that Responsible Authorities and other persons and businesses are more likely to raise representations if they do not. This can lead to a delay with the application having to be considered by the Licensing Committee, which may then either refuse the application or impose conditions if the application is not found to sufficiently promote the Licensing Objectives and meet this Policy. On appeal, the Court is also obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason.
- 7.18** Any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined.

## **8.0 Consideration of Premises Licences & Club Premises Certificates**

- 8.1** A Premises Licence (PL) or Club Premises Certificate (CPC) is required for any premises where it is intended that a licensable activity should take place. Applications for new PLs or CPCs, or variations of the same, should be made in accordance with the Act and relevant Regulations. Applications should also take account of the discretion of this Authority as detailed in this Policy. 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.
- 8.2** The process of applying for new PL or CPC and full variations of current PLs or CPCs are dealt with in same way and involve serving the application on all Responsible Authorities and advertising the application in the prescribed way. If representations are received (and are not subsequently withdrawn following negotiation) the matter will be heard by the Licensing Committee.
- 8.3** The process for a Minor Variation to a current PL or CPC is different. Minor Variations are those which should not have a material effect on the way in which the premises are operated. For example, Minor Variations can be used to:
- Vary times of licensable activities (but not to increase the hours when alcohol can be sold);
  - Make minor structural alterations to the premises (which are to be reflected by an amendment to the Licence Plan);
  - Add or remove conditions from the authorisation.
- 8.4** There is one prescribed fee for such applications. The granting of a Minor Variation is determined by Officers after consultation with those Responsible Authorities affected. If the application is refused, the applicant can still apply to make the same changes under the full variation process.
- 8.5** In order for a representation to be accepted by the Authority it must be considered 'relevant', that is it should be positively tied or linked by a causal connection to the application premises and should relate to one or more of the Licensing Objectives. The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing Committee unless the issue that lead to the representation can be negotiated to an agreed conclusion between the parties. The Licensing Service will seek to facilitate mediation between parties in such cases.
- 8.6** The Authority will also seek to facilitate mediation between licensees, relevant agencies, other persons and businesses where significant issues have arisen relating to an existing authorisation. This will not override the right of any, person or business from making an application for the Review of a PL or CPC. However, where possible and appropriate, the Authority expects Responsible Authorities, other persons and businesses to give early notice to PL / CPC holders of any concerns about problems identified at a premises and of the need for

improvement. It is expected that requests for a Review of any authorisation will be sought only if such notice has failed to resolve the matter or problem.

**8.7** Where representations are received, the characteristics of an area and the impact that the premises may have upon that area in terms of the promotion of the Licensing Objectives will be a fundamental consideration in determining whether a licence should be granted and, if so, what conditions should be attached to it.

**8.8** The Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff, and the adoption of best practice to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

#### ***Licensing Principle 1***

**8.9** **The Authority expects to see evidence of the effective and responsible management of the licensed premises, the effective instruction, training and supervision of staff and the adoption of best practice being specifically addressed within the Operating Schedule.**

***REASON: To ensure the promotion of the Licensing Objectives.***

**8.10** Licensing law is not the primary mechanism for the general control of the antisocial behaviour of patrons once they have left the vicinity of the licensed premises, rather it is part of a holistic approach to the management of such issues.

**8.11** Where appropriate, the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be made to the Guidance in this respect and the following may be employed to address such behaviour and the potential for Cumulative Impact:

- Planning controls;
- Measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other Council departments;
- The provision of CCTV surveillance, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Powers of Local Authorities to designate parts of the Local Authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of Fixed Penalty Notices;
- Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- The power of the police, other Responsible Authorities or other persons to seek a review of a licence or a certificate;
- Any other local initiatives that similarly address these problems.

## ***Licensing Principle 2***

**8.12** When preparing or considering applications, Applicants, Responsible Authorities, Interested Parties and the Authority should, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the appropriateness of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:

- The nature of the area within which the premises are situated;
- Any measures proposed by the applicant as outlined in the Operating Schedule;
- The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises;
- Means of access to and exit from the premises;
- Transport provision in the area and the likely means of public or private transport that will be used by customers either arriving or leaving the premises;
- Parking provision in the area;
- The cumulative impact of licensed premises in an area and scope for mitigation; (Section 15.0)
- The precise nature, type and frequency of the proposed activities;
- Other means and resources available to mitigate any impact;
- Such other matters as may be relevant to the application.

***REASON: To ensure that all relevant matters are taken into consideration during the application process.***

**8.13** Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking) must be recognised and mitigated against.

**8.14** Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their Operating Schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and/or late night refreshment at any time when they are open for shopping unless there are good reasons related to the promotion of the Licensing Objectives for restricting these hours. Applicants applying for new off-licences in residential areas should carefully consider the hours that they are applying for and, the Authority encourages and expects applicants to limit their terminal hour 23:00 in such circumstances so as to reduce the impact of noise and antisocial behaviour on the community.

**8.15** Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas, operators should consider ceasing



the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.

- 8.16** Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.
- 8.17** The Authority is mindful of the responsibilities that licence holders have for preventing antisocial behaviour on their premises and within the vicinity. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate conditions will be imposed which reflect local Crime Prevention Strategies.
- 8.18** Applicants are expected to have carried out the relevant risk assessments under other legislation (e.g. fire precautions, health and safety at work, etc.) prior to submitting their applications. These risk assessments should be used to identify particular issues which may need to be addressed in the Operating Schedule in order to ensure that the Objectives will not be undermined.
- 8.19** In some cases it may be helpful for applicants and / or their advisors to discuss the draft Operating Schedule with Council Officers and representatives of Responsible Authorities, before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.
- 8.20** Any conditions imposed by the Authority will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned. Any condition attached to a PL or CPC should be:
- Clear;
  - Enforceable;
  - Evidenced;
  - Proportionate;
  - Relevant;
  - Expressed in plain language capable of being understood by those expected to comply.
- 8.21** Applicants and those making representations should bear these principles in mind when suggesting conditions to be attached to an authorisation.

***Licensing Principle 3***

**8.22** Where representations have raised concerns in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:

- Limitations on the hours when children may be present;
- Age limitations for persons under 18;
- Limitations or exclusion when certain activities are taking place;
- Full exclusion of persons under 18 when certain licensable activities are taking place;
- Limitations of access to certain parts of the premises for persons under 18;
- A requirement for an accompanying adult to be present.

***REASON: to protect children from harm.***

**8.23** The issues and related concerns relating to the presence of children in licensed operations are provided in Section 4.0.

## 9.0 Consideration of Personal Licences

9.1 A Personal Licence is granted to an individual that authorises the sale and supply of alcohol in accordance with a PL. 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.

9.2 Where an applicant for a Personal Licence has relevant convictions, a licence will still be granted unless the Police lodge an objection within the prescribed period that states that the granting of the licence would undermine the Licensing Objectives. In such circumstances the application will be considered at a hearing of the Licensing Committee.

### ***Licensing Principle 4***

9.3 **In determining initial and renewal applications for Personal Licences where the Police has lodged an Objection Notice, the Authority will take the following matters into consideration:**

- **The circumstances in which the offences were committed;**
- **The period that has elapsed since the offence(s) were committed;**
- **Whether the offences reveal a pattern of offending or were a one off occurrence; and**
- **Any mitigating circumstances.**

**The Authority will reject the application unless the applicant can show exceptional and compelling grounds and that it is unnecessary to do so in order to promote the Crime Prevention Objective.**

***REASON: Prevention of crime is both an objective of the Act and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the Crime Prevention Objective.***

9.4 Where a Personal Licence holder is convicted of a relevant offence, the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed, then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a Hearing will be held to determine whether the licence should be revoked.

## **10.0 Consideration of Temporary Event Notices**

- 10.1** There are two types of types of Temporary Event Notice (TEN) - a Standard TEN and a Late TEN. A standard TEN must be served no later than ten working days before the event to which it relates and this does not include the day it is given or the day of the event, and a late TEN is served no more than nine and not less than five working days before the event to which it relates.
- 10.2** Whilst the Authority recognises that a standard TEN may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the Guidance encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance Licensing Objectives.
- 10.3** Accordingly, the Authority considers that a reasonable period of notice for the service of a standard TEN is 28 days. In any event, a standard TEN should not be served any more than 3 months before the event is due to take place. An exception is made for large or complex events were a greater period of time to adequately plan the event would be required.
- 10.4** Persons serving TENs must also serve a copy notice on the Police and the Responsible Authority for Environmental Health functions i.e. the Council's Environmental Protection section.
- 10.5** Only the Police and Environmental Health Officer have the right to make representations in respect of TEN. In the event of representations being received from either, the Authority's powers are limited to either allowing the event to:
- Proceed as notified;
  - Serve a Counter Notice to render the event unauthorised;
  - In cases where the notification relates to premises which are already licensed, to applying any relevant conditions on the licence to the event.

### *Temporary Structures*

- 10.6** The Authority has adopted the provisions of Section 35 of the County of Lancashire Act 1980 which must be followed when dealing with applications relating to temporary structures.
- 10.7** 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.
- 10.8** More information can be obtained from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing)

## **11.0 Hearings**

- 11.1** 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 Committee which will contain all the relevant information to the case. Copies of this report will be provided to all parties to the Hearing.
- 11.2** Each case will be determined on its individual merits and the Authority will give appropriate weight to:
- The steps appropriate to promote the Licensing Objectives;
  - The information provided by all parties to the Hearing;
  - The Guidance;
  - This Policy.
- 11.3** Hearings will be held at the earliest possible date having regard to the Regulations and the laws of natural justice. The Licensing Committee will conduct a quasi-judicial consideration of the application and relevant representations. Members of the Licensing Committee will carefully consider their position should they be requested to hear a matter which occurs in their own Ward.
- 11.4** 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 and is available from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing)
- 11.5** Whilst the Licensing 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.
- 11.6** All parties to the hearing will be provided with the decision in writing within five working days of the date of the hearing. The decision determined by the Licensing Committee will be accompanied with clear reasons for the decision, having regard to the Licensing Objectives and all relevant legislation.
- 11.7** The decision of the Licensing Committee may involve the imposition of conditions on authorisations. Any such condition(s) will be appropriate for the promotion of one or more of the Licensing Objectives and in accordance with this Policy.

*Site visits*

**11.8** 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 PL and/or CPC;
- Application to Review a PL and/or CPC.

**11.9** 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.

**11.10** The Members of the Licensing Committee 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 and is available from the Licensing Service using the contact details in Appendix 3, or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing)

## **12.0 Reviews and suspension**

### *Reviews*

- 12.1** At any stage following the grant of a PL or CPC a Responsible Authority or an Interested Party may ask for a Review of that specific authorisation. In all cases, evidence will be required to show that a specific concern exists relating to the operation in question and is relevant to one or more of the Licensing Objectives.
- 12.2** Where a review hearing is held, the Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the authorisation. The Guidance reminds the Authority that the powers of Review are to be used in the interests of the wider community and not that of the individual authorisation holder. Whilst the financial circumstances of the authorisation holder will be a consideration for the Authority, the promotion of the Licensing Objectives will be the Authority's primary concern.
- 12.3** 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 PL / CPC 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 normally be discussed at the MALT meetings (Section 14.0) to ensure that the Authority, as well as the other Responsible Authorities, are aware of the issues. The Authority therefore expects PL / CPC holders to respond to such warnings and implement the appropriate remedial action. Any failure to respond to such a warning may lead to a Responsible Authority or Interested Party requesting a review of the PL / CPC. 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.
- 12.4** Accordingly, in some circumstances, for example the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action by the Authority - even in the first instance.
- 12.5** The Authority will seek to prevent attempts to review PLs / CPCs 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.
- 12.6** 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.

### *Red/Yellow Card Scheme*

- 12.7** 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 PL / CPC holder a formal opportunity to reform, as a 'yellow card' would involve the imposition of tough conditions (if appropriate to

the identified problems) together with the warning that if a further review is necessary and matters are found to have not improved, the PL / CPC could 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.

- 12.8** The aim of this approach is to further emphasise the punitive nature of the review process by sending a clear message to PL / CPC holders, and the public, that the Authority will take action against those who act contrary to the Licensing Objectives and the law.
- 12.9** However, the Authority is more than aware that the revocation of a PL / CPC 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 appropriate to do so.
- 12.10** The Authority is aware that the significant impact of revocation could lead to a reticence for Responsible Authorities to review a PL / CPC. 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.
- 12.11** Accordingly, where practicable, if a Reasonable Authority wishes to review any PL / CPC, it should 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*

- 12.12** 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 could mean an automatic second intervention – a ‘red card’.
- 12.13** 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 (if appropriate to the identified problems).

**12.14** The Authority will not issue physical cards, however the Authority will ensure that a 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*

**12.15** In the absence of improvement at any given premises following the first review, Responsible Authorities should seek another review. Again this matter will normally be discussed within the MALT as the impact against the premises is likely to be severe.

**12.16** 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.

*Suspension*

**12.17** The Act requires the Authority to suspend a PL or CPC if the annual fee is not paid when it is due, unless an administrative error or dispute has been notified to the Authority. In such cases there will be a grace period of 21 days to allow the matter to be resolved. If the matter is not resolved within grace period the licence must be suspended.

**12.18** Where such a suspension takes place the Authority must give a minimum of two days notice and may inform the Police and other Responsible Authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place.

## **13.0 Appeals**

- 13.1** The Authority will address the rationale for its decision with regard to the Act, the Licensing Objectives, the Guidance and this Policy.
- 13.2** 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 following the Hearing.
- 13.3** 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).
- 13.4** On determining an appeal the Magistrates' Court, the Court is obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason. Therefore the 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.
- 13.5** 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.

## **14.0 Enforcement**

### *General*

- 14.1** 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.
- 14.2** Where the Authority considers enforcement is necessary, any such action will be taken in accordance with the Community Services Enforcement Policy, which is available from the Licensing Service using the contact details in Appendix 3. Accordingly, the key principles of consistency, transparency and proportionality will be maintained.
- 14.3** 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 PL / CPC. 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)*

- 14.4** The coordination of its duties under the Act requires the Authority to maintain close and regular liaison with Responsible Authorities as well other bodies involved in the licensing process. 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).
- 14.5** 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 basis. Those premises that have been identified as presenting a risk to the Licensing Objectives from the perspective of one or more MALT members will be targeted. Such premises could expect increased monitoring and MALT members may conduct more frequent visits to such premises. This affords the licensed operation sufficient opportunity, as well as support, to address the problems. Should the risks to the Licensing Objectives be sufficiently serious and/or the operation does not take the necessary action to address the problems, the premises will be subject to further intervention. 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.
- 14.6** 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.
- 14.7** 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.

## **15.0 Cumulative Impact**

### *General*

- 15.1** The Authority will not seek to limit the number of licensed premises that will be permitted on the basis of 'need'. Such concerns relate to the commercial demand for another pub, restaurant or hotel and are therefore not a matter for this Policy – rather it is a matter for the Council's Planning Committee and the market.
- 15.2** Whilst not explicitly mentioned in the Act, 'cumulative impact' (i.e. the potential impact) of licensed premises on the promotion of the Licensing Objectives is a proper matter for the Authority.
- 15.3** 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. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises.
- 15.4** The Authority can receive representations from a Responsible Authority or an Interested Party that the cumulative impact 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.
- 15.5** To implement these controls, the Authority can adopt and publish a special cumulative impact policy, which must be maintained separately from, although referenced within, this Policy.
- 15.6** The Authority will expect there to be a clear evidential basis to demonstrate the need for a special policy. For example, the Community Safety Partnership may provide information which demonstrates cumulative impact as part of their general role on anti-social behaviour, or similarly, the Council's Environmental Health Officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.
- 15.7** If suitable demonstrable evidence exists, and prior to implementing a special policy, the Authority must consult those individuals and organisations listed in Section 5(3) of the Act as a minimum. In doing so, the Authority will clearly indicate the area that the special policy will affect and will also clearly state that the Authority intends to create a rebuttable presumption that applications for new PLs or CPCs (or variations of the same) that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the Licensing Objectives.

- 15.8** If the Authority adopts a special policy, it does not relieve Responsible Authorities or Interested Parties of the need to make a relevant representation on cumulative impact grounds. If there are no representations, the Authority must grant the application in terms that are consistent with the operating schedule submitted.

*Current situation*

- 15.9** The number of licensed premises within the Borough has increased - particularly within Ormskirk town centre, where the student population from Edge Hill University has also increased. The Council's Licensing and Gambling Committee has instructed Officers to examine the need for a special cumulative impact policy in 2015/16 following the adoption of this Policy. However, this does not prevent any Responsible Authority or Interested Party making representations on a new application for the grant, or variation, of a PL / CPC on the grounds that the premises will give rise to a negative cumulative impact on one or more of the Licensing Objectives.

- 15.10** The MALT (Section 14.0) will continue to regularly monitor the need for a special policy.

- 15.11** Furthermore, other mechanisms, both within and outside the licensing regime, also exist to address such issues, including:

- Planning controls;
- West Lancashire Community Safety Partnership – which works towards, and supports initiatives designed to have a positive impact on, maintaining a safe environment throughout the Borough;
- The provision of CCTV surveillance;
- Powers to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- The power of the Police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate in question.

## **16.0 Provisional Statements**

**16.1** 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.

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

**16.3** 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.

**16.4** 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.

**16.5** Applicants will be required to notify Responsible Authorities and advertise their application in a similar way to the arrangements for applications for PLs. 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 appropriate 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.

- 16.6** If, on the work being satisfactorily completed, the Authority believes it would grant a PL 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.
- 16.7** If a Provisional Statement has been issued and the person subsequently applies for a PL 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.
- 16.8** Applicants are advised that whilst there is no limit to the duration of a Provisional Statement, the longer there is a delay before a PL is applied for, the greater the potential is for representations not to be excluded due to a genuine and material changes in circumstances.
- 16.9** The Licence will not become effective until a date stipulated by the Authority.

## **17.0 Interim Authorities**

**17.1** Generally, a PL / CPC will remain in force for as long as the 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 authorisation has been surrendered;
- The authorisation has been suspended;
- The authorisation has been revoked.

**17.2** If a PL 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 PL will be reinstated for a period of two months.

**17.3** A person is deemed to be connected to the former holder of a PL, 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.

**17.4** Interim Authority Notices must also be served on the Police within the seven-day period of being served on the Authority. Where required, the Police 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.

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



Appendix 1: Key locations in the Borough of West Lancashire



## Appendix 2: Crime and disorder statistics

*To be inserted*

DRAFT

## Appendix 3: Useful contacts

### Licensing:

Paul Charlson - Commercial, Safety and Licensing Manager  
West Lancashire Borough Council, Robert Hodge Centre, Stanley Way, Skelmersdale WN8 8EE  
Telephone: 01695 585015  
Fax: 01695 585126  
Email: [licensing.enquiries@westlancs.gov.uk](mailto:licensing.enquiries@westlancs.gov.uk)  
Internet: [www.westlancs.gov.uk/licensingact](http://www.westlancs.gov.uk/licensingact)

### 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:

Paul Charlson - Commercial, Safety and Licensing Manager  
West Lancashire Borough Council  
Robert Hodge Centre, Stanley Way, Skelmersdale  
Lancashire WN8 8EE  
Telephone: 01695 585246  
Fax: 01695 585126  
Email: [paul.charlson@westlancs.gov.uk](mailto:paul.charlson@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@lancsfirerescue.org.uk](mailto:skelmersdaleFireSafety@lancsfirerescue.org.uk)

### Statutory nuisances / Community Safety:

Andrew Hill - Environmental Protection and Community Safety 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

The Licensing Act 2003, except for regulated entertainment, is the responsibility of the Home Office. Regulated entertainment licensing law is controlled by the Department for Culture, Media and Sport.

The Home Office  
2 Marsham Street  
London SW1P 4DF

Telephone: 020 7035 4848  
Email: [public.enquiries@homeoffice.gsi.gov.uk](mailto:public.enquiries@homeoffice.gsi.gov.uk)  
Internet: [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

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)