

Appendix 2



AGENDA ITEM:

**LICENSING & GAMBLING
COMMITTEE: 31 MARCH 2015**

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

Contact for further information: Paul Charlson (ext 5246)

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SUBJECT: LICENSING ACT 2003 – NIGHT TIME LICENSING OPTIONS UPDATE

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To provide Members with an update on progress against identified night time licensing options and to provide interim feedback from a night time economy study.

2.0 RECOMMENDATIONS

2.1 That the content of this report be noted.

3.0 BACKGROUND

3.1 Members will recall the report of the 1 April 2014 (attached as Appendix B) which outlined several options in response to this Committee's decision not to proceed with the proposed EMRO on 30 July 2013. The decision of this Committee in response to the report of 1 April 2014 is attached at Appendix C.

4.0 UPDATE

4.1 The following comments are provided as an update on progress in relation to the resolution of this Committee detailed in Appendix C:

Review of the Council's Licensing Policy

Members will recall reports to this Committee and Full Council seeking approval of a revised Statement of Licensing Policy. The Policy was agreed by full Council on 17 December 2014, published on 7 January 2015 and is effective from 7 February 2015.

Review of the Council's Licensing Service Web Pages

All Licensing Service pages have been reviewed and amended to provide clearer guidance on the licensing process.

Review of Licensing Fees

Members will be familiar with the licensing fee structure under the Licensing Act 2003, which is set nationally. At the time of writing the report on 1 April 2014, it had been the Government's intention to seek legislation to allow local authorities to set their own licensing fees based on local circumstances. However, following a period of consultation, the Home Office rejected a move toward locally set fees on 5 March 2015.

Development of initiatives with Edge Hill University (EHU)

After subsequent debate on this item, it was more appropriate that the offer of £5k match funding for the development of initiatives with EHU be administered by the Community Safety Partnership, rather than the Licensing Service. This was because the issues were more diverse than those directly relevant to the Licensing Act 2003. Updates on the progress of this matter have therefore been reported directly to the Community Safety Partnership.

Improved taxi facilities at EHU

The Licensing Service made an approach to EHU to support a pilot study to provide lower cost taxi facilities at the university. Several meetings took place to provide advice and guidance to EHU, but ultimately EHU decided not to pursue this opportunity.

Improved liaison between the licensed trade and the community

The Licensing Service continues to support liaison with the licensed trade. The issues arising out of the Night Time Economy (NTE) study will also help to identify potential options to improve liaison between licensed trade and the community, but the Licensing Service has no direct power to facilitate this.

Cumulative Impact Policy

Following the review of the Council's Licensing Policy in line with this Committee's instruction, a report is currently being prepared outlining the potential use of a Cumulative Impact Policy and/or Late Night Levy. This report will be presented to a future meeting of this Committee.

NTE Study for Ormskirk

In accordance with the decision of this Committee, the Terms of Reference of a NTE study were agreed with the Chair and Vice Chair of this Committee in May 2014. It was agreed with the Chair and Vice Chair of this Committee that the study should not take place during the summer months to take account of the activity of EHU.

5.0 INTERIM FEEDBACK FROM NTE STUDY

- 5.1 After obtaining approval of the Chair and Vice Chair of this Committee, Lancaster University (LU) was selected to undertake the study, but as the original Terms of Reference were too detailed to be delivered within budget, the limitations of this study would mean that it could not (on its own) provide the necessary information to fully consider policy issues such as cumulative impact. The research methodology is therefore limited by the available budget, and as such, it amounts to an independent scoping study on the major issues of the NTE in Ormskirk, rather than to accurately identify and measure such issues.
- 5.2 The NTE study report was anticipated to be available by the March 2015 session of this Committee. However, LU have highlighted a number of factors that have complicated the project and caused some unexpected delay. Firstly, LU were due to conduct interviews with key personnel affected by the night time economy prior to Christmas 2014, but these were delayed until February 2015 by several of the organisations due to be interviewed. Further delays were also caused by the online questionnaire. LU had accounted a specific time to analyse the responses, but had received more and differing responses than expected. Faced with this emerging information, LU decided to conduct more analysis than is usual to inspect the consistency of responses across the submitted questionnaires.
- 5.3 Following consultation with the Chair of this Committee on 18 March 2015, it was agreed to provide Members with some interim feedback from the NTE study pending the full report being available to the June session of this Committee. Appendix D provides this information.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 The 2003 Act has the potential to impact upon the Community Strategy. The contents of this report have the following links with the Community Strategy: Community Safety (issues A and E); Economy and Employment (issue D).

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 The financial implications of each of the options are detailed in this report.

8.0 RISK ASSESSMENT

- 8.1 The Council is not under an obligation to introduce the options contained in this report. However, concerns regarding antisocial behaviour are not solely linked to issues that can be addressed by licensing controls. Members must therefore be mindful of the remit of this Committee when considering this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

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

- A Equality Impact Assessment.
- B Report to the Licensing and Gambling Committee: 1 April 2014
- C Resolution of Licensing and Gambling Committee: 1 April 2014
- D Interim feedback from Ormskirk NTE Study

Appendix A

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 matter contained in this report applies equally to all activities and premises with a focus on Ormskirk town centre area.</i></p>
2.	<p>What sources of information have you used to come to this decision?</p>	<p><i>The study was open to any person affected by Ormskirk NTE.</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 study was open to any person affected by Ormskirk NTE.</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 share a protected characteristic and those who</i></p>	<p><i>No. The legislation applies equally to relevant licensable activities.</i></p>

<i>do not share it.</i>	
5. What actions will you take to address any issues raised in your answers above?	<i>None required.</i>

Appendix B
Report to the Licensing and Gambling Committee: 1 April 2014



AGENDA ITEM:

**LICENSING & GAMBLING
COMMITTEE: 1 APRIL 2014**

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

Contact for further information: Paul Charlson (ext 5246)
(E-mail: paul.charlson@westlancs.gov.uk)

SUBJECT: LICENSING ACT 2003 – NIGHT TIME LICENSING OPTIONS

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

- 1.1 To provide Members with options and an action plan to address concerns regarding night time antisocial behaviour in the Borough, including Ormskirk town centre.

2.0 RECOMMENDATIONS

- 2.1 That the Licensing and Gambling Committee identify those options stated in paragraph 4.3 and the associated action plan provided at Appendix 2 it considers appropriate.
- 2.2 That the Assistant Director Community Services be instructed to implement the chosen options as a result of the recommendation at paragraph 2.1.

3.0 BACKGROUND

- 3.1 Members will recall the report of the 4 February 2014 regarding a proposed Early Morning Restriction Order (EMRO). Following significant debate, this Committee resolved not to proceed with the proposed EMRO as detailed in the resolution of

this Committee on 30 July 2013. In reaching this decision, this Committee instructed the Assistant Director Community Services to:

- Provide detailed information to this Committee regarding the options outlined in the report of 4 February 2014;
- Write to the Home Office outlining Member's concerns regarding the EMRO adoption process. (A letter was duly sent to the Home Office on 28 February 2014. Members will be informed of the reply).

3.2 In preparing the options and action plan attached at Appendix 2 to this report, the following have been consulted:

- Ormskirk Residents Group
- Lancashire Constabulary – local police and licensing unit
- Edge Hill University (EHU) and Student Union
- Hartlepool Council Licensing Service
- Charnwood Borough Council Licensing Service
- Loughborough University

3.3 Cabinet have also approved one-off funding of £10k to assist in the delivery of the options detailed in this report.

4.0 OPTIONS

4.1 Not all of the options detailed below can be implemented and/or sustained for any significant period within the provided funding. Members are therefore requested to choose those options which are considered appropriate.

4.2 Members' attention is drawn to the remit of this Committee under the Licensing Act 2003 (the 2003 Act). In the development of these options, it is apparent that the implications of some options are beyond the remit of this Committee, and are identified as such. If Members are supportive of such an option, it can be endorsed, but it may also require further consideration by full Council, Cabinet, the Licensing and Appeals Committee and/or the Community Safety Partnership. There is also significant cross over with the responsibilities of EHU and the Ormskirk Town Centre Task and Time Group, which should be recognised by the Committee.

4.3 The available options are:

- *Review of the Council's Licensing Policy*

Whilst a statutory review of the Council's Licensing Policy is not currently required until 2016, it would be prudent to amend the Policy during 2014/15 to reflect the current legislative position so as to provide information on the available controls. Members will be aware that any significant amendment to the Council's Licensing Policy must be subject to a minimum 12 week public consultation. There is no budget to support this consultation and so only the minimum statutory requirements can be met. Funding of £1k would allow more effective communication methods to be adopted in order to raise public awareness of the consultation throughout the Borough.

- *Review of the Council's Licensing Service web pages*
Members will be aware that a new content management system is currently being implemented to improve the look and functionality of the Council's website. The Licensing Service webpages can be reviewed during 2014/15 to provide improved information on the available controls under the 2003 Act. No additional resources are required to implement this option.
- *Review of licensing fees*
Members will note a separate report regarding a current Home Office consultation to reform the fee structure under the 2003 Act. If the Government were to adopt these proposals, this would allow fees to be calculated so that higher fees are paid by those premises operating late at night and/or principally supplying alcohol. The calculation and allocation of fees must be transparent and used to administer and monitor the licensing regime. Accordingly, fees could be used to improve the number and frequency of compliance inspections of licensed premises without further additional resources.
- *Voluntary reduction in licensed hours in relevant premises*
Members raised this issue during the debate on 4 February 2014, as it had been identified that some local authorities had facilitated a voluntary reduction in licensed hours within relevant businesses. However, investigations have revealed that such agreements had been reached in those areas where a number of licensed premises had operated beyond 04:00 and the expense of operating those businesses until that time was not offset by income. This does not currently appear to be the case within the Borough. A voluntary agreement can be breached at any time, and so without an economic pressure to reduce licensed hours, it is unlikely to occur.
- *Encouraging business lead initiatives including Best Bar None and the Purple Flag Scheme*
Whilst supportive of the ideology, Lancashire Constabulary are unable to facilitate and fund the significant coordination required to introduce and sustain the Best Bar None initiative. Accordingly, the Licensing Service would require a staff resource to promote, facilitate and coordinate this scheme, costing approx. £10k per annum. However, Members will be aware that there has previously been little interest in this scheme within the licensed trade in the Borough. There also appears to be no public demand or pressure in the Borough that would generate the necessary competition between licensed premises that would allow the Best Bar None scheme to develop. This option is therefore not recommended at this time.

The Purple Flag scheme aims to create and maintain a safe and clean town centre environment in partnership with local businesses and organisations, transport operators and Council services. The even greater resources and coordination required to implement this option are much wider than the remit of this Committee. Accordingly, if Members are supportive of this scheme, the matter would need to be presented to DSH (for identification of the resources required across services areas) and full Council.

- *Taxi marshals*
 Whilst Private Hire Operator offices (predominantly within Ormskirk town centre) employ methods of marshalling customers at peak times, a similar provision is not made at the Hackney Carriage ranks in Ormskirk town centre. As a means to control customers and facilitate their transport away from the town centre, marshals could be posted at peak times during the night. To provide 2 marshals for 4 nights per week (4 hours per night) would cost approx. £500 per week. This equates to approx. £24k per annum, so the available funding could only provide a limited pilot scheme. If Members are supportive of this option, the matter should be presented to the Licensing and Appeals Committee for approval, as it has the appropriate delegation to determine matters of taxi management policy in the Borough.

- *Development of initiatives with EHU*
 Based on experiences to address similar issues at Loughborough University, it appears that additional community liaison initiatives funded and operated by that university have helped to address concerns of potential noise and disturbance from student activity. Such initiatives include:
 - i. Use of Community Wardens who respond to and deal with transient noise issues in the vicinity of the university and also to conduct follow up visits to students and residents regarding reported noise issues – including multi agency visits as needed;
 - ii. Use of Security Officers who respond to residents experiencing noise / or antisocial behaviour in the Community and conduct general patrols. Officers are able to intervene and take action – either through university powers or by contacting the police;
 - iii. A single contact within the university to respond to public concerns;
 - iv. Improved communication in the locality - including information for students living in residential areas and a Community Newsletter incorporating key contacts at the university;
 - v. Formal disciplinary procedure for students involved in noisy parties in residential premises;
 - vi. Introduction of data sharing agreements with relevant agencies to ensure awareness of complaints;
 - vii. A night time bus service for students – potentially utilising Section 106 monies. (For example, operating between EHU and Ormskirk town centre until approx. 03:00 using designated stops).

The issues detailed above are beyond the licensing remit of this Committee. If Members are supportive of this approach, a formal request could be made to EHU and/or the Community Safety Partnership seeking a response to these issues. Members may also consider offering any or all of the available £10k as match funding for this purpose.

- *Improved taxi facilities at EHU*
Discussions have already taken place with EHU and the Student Union to review taxi provision at the campus and to examine the feasibility of providing a low cost taxi scheme between EHU and Ormskirk town centre. EHU aim to organise this scheme with the support of the Licensing Service, and so there would be no additional resource requirements.
- *Improved liaison between the licensed trade and the community*
It is proposed that a representative of the licensed trade in Ormskirk attend the routine Ormskirk town centre Task and Time meetings. Lancashire Constabulary are supportive and would facilitate a suitable representative to attend the meetings. No additional resources would be required.
- *Provision of temporary public toilet facilities in Ormskirk town centre*
This option has been suggested by Ormskirk Residents Group. Two self-contained public conveniences would cost approx. £500 per day (including transport and cleansing/disposal). By way of example, if such facilities were provided two days per week, this equates to approx. £48k per annum and so the available funding could only provide a limited pilot scheme. The location of such facilities would also need to be carefully considered to address any potential implications for noise and/or disturbance.
- *Cumulative Impact Policy*
A cumulative impact policy can be put in place in a particular area where unacceptable levels of crime, disorder or public nuisance have been identified. Such a policy specifies that applications for the grant or variation of certain types of licensed premises will normally be refused if representations are received unless the applicant demonstrates in their operating schedule that there will be no adverse impact on one or more of the licensing objectives.

The evidential requirements are similar to an EMRO and there would be similar financial and staff resource implications for the Council to consider and adopt such a policy. Furthermore, the Council's Licensing Policy would need to be reviewed and implemented before a cumulative impact policy could be considered. Counsel Advice is also essential prior to any preparatory work to ensure the current available data would withstand the scrutiny required to implement such a policy. Counsel Advice would be approx. £2k and a further report would be required to outline the implications.

- *Night time economy study*
A study could be commissioned to fully and independently ascertain the issues in the Ormskirk area. This option would have financial and staff resources for the Council to commission and interpret the findings of such a study. A basic study would cost approx. £5k.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 The 2003 Act has the potential to impact upon the Community Strategy. The contents of this report have the following links with the Community Strategy: Community Safety (issues A and E); Economy and Employment (issue D).

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 The financial implications of each of the options are detailed in this report.

8.0 RISK ASSESSMENT

- 8.1 The Council is not under an obligation to introduce the options contained in this report. However, concerns regarding antisocial behaviour are not solely linked to issues that can be addressed by licensing controls. Members must therefore be mindful of the remit of this Committee when considering this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

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 Night time licensing options action plan

<p><i>people);</i></p> <p><i>Foster good relations between people who share a protected characteristic and those who do not share it.</i></p>	
<p>5. What actions will you take to address any issues raised in your answers above?</p>	<p><i>None required.</i></p>

Appendix 2

Night Time Licensing Options Action Plan

Item	Action	Approx. cost	Target completion
1	Review of the Council's Licensing Policy	£1k	March 2015
2	Review of the Council's Licensing Service web pages	None	August 2014 – pending roll out of new content management system
3	Review of licensing fees	None	March 2015 – pending publication of new regulations
4	Voluntary reduction in licensed hours in relevant premises	None	N/A
5	Encouraging business lead initiatives including Best Bar None and the Purple Flag Scheme	Best Bar None: £10k pa Purple flag: requires Council debate	Scheme available from April 2015
6	Taxi marshals	£500 per week pending L&A Committee approval	September 2014
7	Development of initiatives with EHU	Total funding to be decided	Formal requests submitted by May 2014
8	Improved taxi facilities at EHU	None – pending continued EHU involvement	September 2014
9	Improved liaison between the licensed trade and the community	None	May 2014
10	Provision of two temporary public toilet facilities in Ormskirk town centre	£500 per day	June 2014
11	Cumulative Impact Policy	£2k – initial Counsel advice	June 2015 initial advice
12	Night time economy study	£5k	April 2015

Appendix C

Resolution of Licensing and Gambling Committee: 1 April 2014

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.

Appendix D

Interim feedback from Ormskirk NTE (ONTE) Study

WLBC commissioned Lancaster University to Undertake a scoping study, to “conduct independent research to assist them in developing a better understanding of the positive and negative impacts of the night time economy for those residing, working and visiting Ormskirk Town Centre” (WLBC Brief November 2014).

With this brief in mind, a multi method, multi perspective study was undertaken between November 2014 and March 2015. Five data sets were compiled:

1. Mobile observations between 7pm and 3am on a Wednesday and Saturday evening in Ormskirk’s town centre and surrounding areas, during term time (November 2014). During these observations LU spoke with customers and those working in the ONTE (door staff, fast food restaurants, street pastors, police, and ambulance).
2. Ten expert stakeholder interviews were conducted with those directly involved or affected by the ONTE (including the Police, local Councillors, WLBC officers, Street Pastors, and representatives from the Residents Group and the local university).
3. A concise public facing electronic survey aimed at all Ormskirk citizens. 192 people responded to the survey across a two week period following considerable publicity from WLBC and the local media. The ten questions produced demographic data, and respondents’ opinions about positives and negatives of the NTE. There was also a free Comment Box, filled in by over 100 people.
4. Time was spent in the CCTV suite viewing live footage and discussing issues with the CCTV operatives. Secondary data was also provided from CCTV operative records.
5. Secondary data was also provided from call records to a previously established ‘Residents Hotline’. Between October 2012 and December 2014 this line recorded 742 calls.

Emergent Headline Themes

Theme One: The Complexity of Balancing Positives and Negatives of NTEs

It is clear that balancing the positives and negatives of the ONTE is difficult for those tasked with the health and wellbeing of all Ormskirk citizens. The study found diverse views, a good illustration being found in the e-survey. Here 46% of respondents stated the NTE had predominantly created benefits (later explained as increased employment, business revenues and a better leisure experience), whilst 28% believed it had generated problems, and 26% seeing both benefits and problems. Overall, the study found those charged with regulating the ONTE were knowledgeable and committed to the task.

Theme Two: Serious Crime, Violent Disorder and Illegal Drugs

Although such incidents can occur, there is little evidence of serious crime and violent disorder occurring regularly in the ONTE. Stakeholder interviews, CCTV records, and discussions with ONTE staff and consumers supported this finding; indeed no arrests were made on the two nights of our observations. Time spent with the CCTV operatives, coupled with mobile observations found some evidence of illegal drug

and/or novel psychoactive substance use, although this was not a particular concern amongst citizens.

Theme Three: Personal Safety

The vast majority of e-survey respondents (77%) experienced the Ormskirk NTE and surrounding areas as either “Safe” or “Very Safe”, with female respondents more likely than males to indicate they felt “Unsafe” or “Very unsafe”. CCTV operators logged a ‘drink related incident every other day’ (although not necessarily occurring at night). Concerns were voiced about disorderly conduct, threatening behaviour and sexual harassment, each of which can affect male and female citizens. Personal safety concerns were highlighted both within the ONTE environment and when returning home from a night out. This issue emerged in the interviews LU undertook with the Street Pastors for example, who expressed concern about young intoxicated people unable to “find their way home”.

Theme Four: Disorderly conduct and noise in residential areas

The theme that has generated the most interest and elicited the most emotional responses relates to disorderly behaviour and noise in residential areas. Overall the most significant problem highlighted within the ONTE e-survey was noise in residential areas (46%). Whilst those respondents who self-identified in the e-survey as ‘Students Living in Ormskirk’ were more likely to look on the Ormskirk NTE favourably than those who self-identified as ‘Residents of Ormskirk’, both groups placed ‘Noise in Residential Areas’ as their principal concern. The residents’ hotline found complaints peaked in September/October and virtually stopped during June, July and August, coinciding with the University academic year. Although residents from 19 streets chose to record complaints, 91% of all calls affected 6 residential streets. This concern of noise and disorderly behaviour was also borne out by our mobile observations, and in particular LU’s ‘journeys’ along the routes that are taken by NTE customers when homeward bound. This problem was exacerbated by the lack of available transport to convey people out of the town centre.