



# Licensing Act 2003

## Statement of Licensing Policy

202015

## 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 these ~~se~~ issues ~~that have arisen in the Borough since the Act came into force. It therefore\_ and~~ 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.

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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 / permissions 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 and it will not ignore, or be inconsistent with, these provisions. 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 2015~~1~~ version and was agreed by full Council on the ~~17<sup>th</sup>-3<sup>rd</sup>~~ December 201~~9~~~~4~~, was published on the 7<sup>th</sup> January 20~~15~~~~5~~ and came into force on the 7<sup>th</sup> February 20~~15~~~~5~~. It shall remain in effect for five years and will be reviewed no later than the 7<sup>th</sup> February 202~~5~~~~0~~. 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. Procedures 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 (Appendix 2 - useful contacts) and other local organisations that have professional advice to offer.
- 1.9** Accordingly, the Authority recommends that existing licensed operations, as well as those undertaking any potential application, consider the following matters. The Authority will give due regard to the presence or absence of such action when determining applications or considering potential action against existing licensed operations:
- 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 are 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 monitored (Section 14.0 – Enforcement) 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 (PL) or Club Premises Certificate (CPC) reviewed at any time.

~~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.~~

**1.10** The Act and this Policy are not ~~at~~ the primary mechanisms for the general control of nuisance and antisocial behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the licensee. Licensing is about regulating licensable activities on~~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 risks to the Licensing Objectives~~the occurrence of crime and disorder and public nuisance in the~~ immediate vicinity of ~~by outside~~ their premises, ~~ff~~ for example on the behaviour of customers as they enter or leave~~pavement, or the use of~~ in a beer garden, car park or ~~in~~ a smoking shelter. Nonetheless, licensing law will always be part of holistic approach to the management of the evening and night time economy.

1.121.11 Nothing in this Policy will undermine the rights of any person to apply for a variety of authorisations / permissions under the Act and have any such ~~the~~ application considered on its individual merits.

1.131.12 Nothing in this Policy will override the right of any person to make relevant representations on any application or seek a Review of a PL or CPC where they are permitted to do so under the Act.

1.141.13 This Policy will also avoid duplication with other regulatory regimes (for example, the Health and Safety at Work etc. Act 1974) as far as is possible.

1.151.14 This Policy will also be kept under review. The Commercial, Safety and Licensing Manager 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 that such a review is required. The Issues Log is not a public document, but any concerns regarding this Policy Statement can be submitted to the Licensing Service (Appendix 2 – useful contacts).

## **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 PL and / or CPC 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. Further information relating to the potential impact of licensed operations on public nuisance is provided in Section 4.0.
- 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 20~~19~~~~14~~ until the 31<sup>st</sup> October 20~~19~~~~14~~ 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 2.
- 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 Vision, Values and 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.

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## 4.0 Licensing Objectives and Licensable Activities

### Licensing Objectives

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 promotion of the four objectives is the paramount consideration at all times. Accordingly, the Authority will expect all applicants and licence holders to, where appropriate, specify and implement the methods, precisely and clearly, by which they will promote the four Licensing Objectives. Guidance on the Licensing Objectives is available at [www.gov.uk](http://www.gov.uk)

### Licensable Activities

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, or to the order of, a member of the club;
- The provision of 'regulated entertainment' and
- The provision of late night refreshment.

4.54.4 Many aspects of regulated entertainment, particularly live music, have been deregulated and are not subject to control under the Act. This Policy recognises the need to facilitate a broad range of entertainment provision for enjoyment by the public, but this must be offset by any risk to the Licensing Objectives and then only where the legislation permits. Accordingly, this Policy will not inadvertently deter any entertainment that is not subject to control under the Act by imposing indirect costs or controls of a disproportionate nature.

4.64.5 Schedule 1 to the Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities which are not and therefore exempt from the regulated entertainment regime. 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 2, ~~or on the Licensing Service homepage [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing).~~

**4.74.6** Where an activity is licensable, the promotion of the Licensing Objectives is the paramount consideration for the Authority. With the exception of minor variation applications, 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. Mandatory conditions are dictated by legislation are imposed on all relevant ~~PLs remises Licences/ CPCs Club Premises Certificates~~ and address such issues as irresponsible drinks promotions, available of free drinking water, age verification policies. 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 the Committee' is used throughout this Policy, and shall be deemed to refer to the Council's Licensing and Gambling Committee, or Sub-Committee thereof unless otherwise stated.]

**4.84.7** 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.

**4.94.8** Conditions will reflect the general principles set out in the Guidance. They 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~~authorisations. 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. However, to assist the Authority in determining the potential risks associated with any given application in this regard, site plans are expected to clearly define the extent of the operation. This would include all areas under the control of the applicant which are used for Licensable Activities as well as those areas under the control of the applicant which are not used for Licensable Activities, but there is a clear risk to the Licensing Objectives — for example beer gardens or pavement seating where alcohol is consumed.~~

**4.104.9** 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. Whilst the imposition of standardised conditions is prohibited as being disproportionate and burdensome, the Authority will use standard wording when applying conditions in similar situations. This is done to promote consistency of approach.

### **Authorisations or permissions**

4.114.10 The Act provides for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities;
- Club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act;
- Temporary Event Notice (TEN) – to carry out licensable activities at a temporary event;
- Personal licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

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

4.124.11 Whilst the Authority considers the Police to be the main source of advice on crime and disorder, it will also seek to involve the Community Safety Partnership (CSP) in its holistic approach to licensing. 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. Accordingly, ~~The Authority~~ strongly encourages relevant businesses to actively participate in local Pub Watch schemes, as these have proven to improve communication and therefore or similar forums where they are set up, and where this helps to secure and / or promote the Licensing Objectives.

4.134.12 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 or existing authorisation.

4.144.13 National and local (available at [www.saferlancashire.co.uk](http://www.saferlancashire.co.uk)) crime statistics and research indicate that the consumption of alcohol can be a significant contributory factor to levels of crime and disorder. Applicants and existing licence holders 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.

4.154.14 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 and existing licence holders should note that this Policy is an integral part of a coordinated approach to reducing crime and disorder and they should therefore demonstrate in their Operating Schedules, and day-to-day operations, how they participate in and promote local policies and initiatives.

4.164.15 The Authority will pay equal regard to relevant representations from Responsible Authorities, but 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 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.

**4.174.16** To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from the Police Licensing Unit before preparing their application (Appendix 2 - useful contacts).

**4.184.17** 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 (**DPS**) 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.

**4.194.18** In order to meet the Public Safety and Crime and Disorder objectives, the Council reserves its right to use powers under the Anti-social Behaviour Crime and Policing Act 2014 ~~Section 13 of the Criminal Justice and Police Act 2001~~ to designate a Public Spaces Protection Order (PSPO) ~~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**

**4.204.19** Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the Act. 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.

**4.214.20** The Authority will pay equal regard to relevant representations from Responsible Authorities, but 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 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.

**4.224.21** 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 Fire Service and the Police before preparing their application (Appendix 2 – useful contacts).

**4.234.22** 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 free 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.

**4.244.23** The Authority will work closely with the Fire Service to assist in assessing/determining an appropriate maximum capacity, where required and not imposed by other legislation, 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 Fire Service using the contact details in Appendix 2.

### **Prevention of Public Nuisance**

**4.254.24** Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the Act and retains its broad common law meaning.

**4.264.25** The Act enables the Authority and Responsible Authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific PLs and CPCs. In considering the promotion of this Licensing Objective, the Authority and Responsible Authorities focus on the effect of the Licensable Activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable.



**4.274.26** Accordingly, ~~Fi~~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.

~~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.~~

**4.284.27** 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 transport facilities;
- The use of outside areas;
- Any light pollution risks.

**4.294.28** Applicants are advised to seek advice from the Council's Environmental Protection Section before preparing their application (Appendix 2 – useful contacts).

**4.304.29** 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 for or against a Cumulative Impact Policy – should one be declared; (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.

**4.314.30** 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.

**4.324.31** The Authority will pay equal regard to relevant representations from Responsible Authorities, but will pay particular regard to relevant 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 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. Such representations can include previous noise and / or statutory nuisance complaints and any formal action taken.

4.334.32 Where appropriate, applicants and existing 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.

4.344.33 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.

~~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***

**4.354.34** 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).

**4.364.35** 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 (Appendix 2 – useful contacts). The Authority will pay equal regard to relevant representations from Responsible Authorities, but will pay particular regard to relevant representations from Social Services to determine if measures proposed are sufficient to reduce the risk to children. The Authority will not 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.

**4.374.36** 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.

**4.384.37** 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.

**4.394.38** 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 2, ~~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 a risk of child sexual exploitation;
- 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.

**4.404.39** 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*

**4.414.40** 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'.

4.424.41 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).

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## 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, equality, 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 proposed development / provision of licensed premises involves an assessment of the planning merits of the scheme 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 an authorisation / permission ~~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 and existing licensees 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 The Act does not prevent an application being submitted before any relevant planning permission has been sought or granted. However, it is advisable to only submit licensing applications for businesses with planning permission or that are lawful for other reasons. The planning consent or other reason for the use being lawful in planning terms should be demonstrated in the supporting documentation in the PL or CPC application. Therefore, prospective applicants must be aware of potential breaches of legislation arising from the decision process of both regimes. This is particularly pertinent in relation to opening hours. For example, if a closing time has been set through the planning regime, 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 obtain 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 [www.gov.uk](http://www.gov.uk) or ~~the Licensing Service homepage~~ [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing)

- 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.

#### *Promotion of equality*

- 5.9** This Policy recognises that the Equality Act 2010 places a legal obligation on the Authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. All reports submitted to the Committee contain an Equality Impact Assessment Form, which aims to highlight any such issues relevant to the report and the matter to be determined.

## 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 ~~156~~ elected Members and has 1 chairman and 1 vice chairman. This Committee is further divided into a Sub-Committee(s) of ~~43~~ 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~~The 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~~Director of Leisure and Environment. 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, w~~Where a representation is considered to be irrelevant, repetitious, frivolous or vexatious, the Authority ~~Assistant Director Community Services~~ will inform the author of the representation in writing and give reasons for this decision. The Authority ~~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~~Director of Leisure and Environment will be confirmed in writing to the applicant and any person who has made a relevant representation forthwith or within the requirements of the Act, relevant Regulations or the Guidance.



**Table 6.8a - delegations**

Matter to be dealt with	Delegated authority to:	
	Licensing Committee	Director of Leisure and Environment
Application for a Personal Licence	If a Police objection is made	If no objection is made
Application for a Personal Licence with unspent convictions	All cases	-
Application for a PL / CPC	If a relevant representation is made	If no relevant representation is made
Application for a Provisional Statement	If a relevant representation is made	If no relevant representation is made
Application to vary a PL / CPC	If a relevant representation is made	If no relevant 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 a PL	If a Police objection is made	All other cases
Applications for Interim Authorities	If a Police objection is made	All other cases
Application to Review a PL / CPC	All cases	-
Decision on whether a representation 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 an objection to a Temporary Event Notice	All cases	-
Determination of application to vary premises licence at community premises to include alternative licence condition	If a Police objection is made	All other cases
Decision whether to consult other responsible authorities on minor variation application	-	All cases
Determination of minor variation application	-	All 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. Failure to comply with the statutory requirements may result in an application or notice being invalid and / or rejected. Further advice on these processes is available from [www.gov.uk](http://www.gov.uk) or the Licensing Service using the contact details in Appendix 2, ~~or on the Licensing Service homepage~~ [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing).

### ~~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 2 – 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 ~~PL or CPCLicensed 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. ~~With the exception of a minor variation application, 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 ~~or more~~ of the Licensing Objectives. Any representation that fails 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 2 – 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 normally 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 is ~~not~~ a 'relevant' representation. If Interested Parties are concerned about possible intimidation or other repercussions, they could consider approaching the Police or another appropriate Responsible Authority, which could make a representation on their behalf - so long as the Responsible Authority was satisfied with the available evidence. Where the Authority considers that an Interested Party has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, it may decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details will only be considered where the circumstances justify such action.

**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. Where the Authority considers a representation to be libellous, it will ask for the representation to be reworded. If the representation is not suitably reworded, the Authority reserves the right to refuse to publish the 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 on 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 permission 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. In ~~accordance with the Guidance, in~~ borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation.

**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** The Licensing Principles contained in this Policy are discretionary and are distinct from the statutory Licensing Objectives contained in the Act. 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~~.

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## **8.0 Consideration of Premises Licences (PL) & Club Premises Certificates (CPC)**

**8.1** A PL or CPC is required for any premises where it is intended that a licensable activity (not otherwise authorised by a Temporary Event Notice) 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** 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. In most cases, ~~T~~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.

**8.4** 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.

**8.5** 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.

### *Minor variations*

**8.6** 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.

**8.7** ~~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.

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

**8.8** **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.***

**8.9** 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.

**8.10** Where appropriate, the Authority will seek to identify mechanisms that are available to address 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***

**8.11** 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.***

**8.12** 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.

**8.13** 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.

**8.14** 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.

- 8.15** 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.
- 8.16** 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 Borough. Where appropriate, conditions will be imposed which reflect local Crime Prevention Strategies.
- 8.17** 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.
- 8.18** 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.
- 8.19** 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.
- 8.20** Applicants and those making representations should bear these principles in mind when suggesting conditions to be attached to an authorisation.



**Licensing Principle 3**

**8.21** 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.**

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

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## 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 2, ~~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 Act and relevant Regulations;
- ~~The~~ steps appropriate to promote the Licensing Objectives;
- The Licensing Officer's report;
- 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 2, ~~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** The Authority will aim to provide all parties to the hearing 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 2, ~~or on the Licensing Service homepage~~ [www.westlancs.gov.uk/licensing](http://www.westlancs.gov.uk/licensing).

### *Decisions*

**11.11** The Authority will provide comprehensive written reasons for its decisions following any hearing. These reasons will address the extent to which the decision has been made with regard to the matters of the case, the legislation, the Guidance and this Policy. The reasons will be given to all parties to the hearing.

## 12.0 ~~Reviews and suspension~~

12.1 The review process is a key protection for the community and Responsible Authorities where problems associated with the Licensing Objectives occur after the grant or variation of a PL or CPC.

12.2 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 ~~prove show~~ that ~~the a specific~~ concerns ~~exists relateing~~ to ~~a particular premises~~~~the operation in question~~ and is relevant to one or more of the Licensing Objectives. Requests for reviews will therefore 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.

12.3 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. However, it will always be important that any detrimental financial impact that may result from the Authority's decision is appropriate and proportionate to the promotion of the Licensing Objectives. But where premises are found to be trading irresponsibly, the Authority will not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.~~

12.4 Accordingly, where authorised persons and Responsible Authorities have concerns about problems identified at particular premises, the Authority would expect them to give licence holders early warning of their concerns and the need for improvement, including what steps they need to take to address those concerns. 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. To this end, the Authority recognises that the promotion of the Licensing Objectives requires a partnership approach and will seek to promote cooperation in this regard, and whilst a review should not be used to undermine this cooperation, any failure by the holder to respond to such warnings would be likely to lead to a review.

### *Determination of a review*

12.5 Where a review hearing is held, the Authority has a variety options:

- Take no action and /or issue an informal warning;
- Modify conditions, including adding new conditions or any alteration or omission of an existing condition permanently or for a temporary period not exceeding 3 months;
- Exclude a licensable activity;
- Remove the Designated Premises Supervisor;
- Suspend the PL / CPC for a period not exceeding three months;

- Revoke the PL / CPC.

**12.6** 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 In deciding which of these powers to invoke, the Authority will aim to establish the cause or causes of the concerns that the representations identify. The remedial action taken will generally be directed at these causes and will be appropriate and proportionate to address the causes of problems identified. However, where Responsible Authorities have already issued oral and /or written warnings requiring improvement that have failed as part of their own stepped approach to address concerns, the Authority is unlikely to repeat this approach and will take this into account when considering what further action is appropriate.

#### *Reviews associated with crime*

**12.7** 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. A review may arise in connection with crime that is not directly connected with Licensable Activities. In such cases, the Authority will not judge the criminality or otherwise of any issue. Its role is not to establish the guilt or innocence of any individual, but to ensure the promotion of the crime prevention objective. Reviews therefore need not be delayed pending any court action, but where such action has been taken, it will not be for the Authority to attempt to go beyond any finding by the courts, which will be treated as a matter of undisputed evidence. To this end, it will treat those criminal matters listed in the Guidance particularly seriously.

**12.8** Conversely, it is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the Authority still has the option to take any appropriate steps to remedy the problems.

#### *Persistent sales of alcohol to children*

**12.9** Where there are systems in place designed to prevent underage sales, the Authority will take a proportionate approach toward any identified breaches. However, where persistent sales of alcohol to children have occurred, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, the Authority would expect Responsible Authorities to consider taking steps to ensure that a review of the licence takes place. This is particularly the case where there has been a prosecution for the offence under Section 147A or a Closure Notice has been given under section 169A of the Act. In determining the review, the Authority will consider revoking the licence if it considers this appropriate.

#### *Summary reviews*

**12.10** Summary reviews can be undertaken when the Police consider that the premises concerned are associated with serious crime or serious disorder (or both) and should



be reserved for the most serious matters which cannot be adequately or otherwise redressed unless urgent action is taken. It allows interim conditions to be attached to a PL and a fast track licence review. However, the powers apply only where a PL authorises the sale of alcohol. They do not apply in respect of other PLs or to CPCs.

- 12.11** The summary review process is set out under sections 53A-53D of the Act and is detailed in the Guidance.

#### *Licensing Authority representations*

- 12.12** The Authority may apply for a review if it is concerned about licensed activities at premises. However, this will not normally be on behalf of other persons, such as local residents or community groups, as these individuals or groups are entitled to apply for a review in their own right. Furthermore, the Authority would not normally seek a review on behalf of, or instead of, another Responsible Authority where the basis for the intervention falls within the remit of that other authority. For example, the Police would take appropriate steps regarding crime and disorder or the Council's Environmental Protection team would address concerns about noise nuisance.

#### *Repetitious grounds for review*

- 12.13** The Authority is required to safeguard the review process and prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the Authority on an earlier occasion. It will therefore examine each application in the context of previous applications and decisions.

#### *Red/Yellow Card Scheme*

~~**12.13** 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.~~

~~**12.13** 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.~~

~~**12.13** 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.~~

~~**12.13** 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.~~

~~**12.13** 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'~~

~~**12.13** 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).~~

~~**12.13** 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, 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 will stipulate how long the yellow card will remain in force and may also publicise the decision as a deterrent to other premises.~~

#### ~~'Red Card' — second/subsequent review Hearing~~

~~12.14 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.~~

~~12.14 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. In such circumstances, the presumption will be to revoke the licence unless there is good reason not to. The Authority will then publicise the decision as a deterrent to other premises.~~

#### *Suspension*

~~12.14 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.~~

~~12.14 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. The Authority will consider prosecution where licensed operations remain open to the public whilst the PL or CPC is suspended.~~

## 13.0 Appeals

~~The Authority will address the rationale for its decision with regard to the Act, the Licensing Objectives, the Guidance and this Policy.~~

~~Following a Hearing, the Authority will notify all parties of the decision and any conditions that have been imposed. This will be done in writing following the Hearing.~~

**13.1** 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.

**13.2** On determining an appeal ~~the Magistrates' Court~~, the Court may review the merits of the decision on the facts and consider points of law or address both. It is obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason. In addition, the court is entitled to disregard any part of this Policy that it holds to be ultra vires to the Act and therefore unlawful.

**13.3** On determining an appeal, ~~Therefore~~ the Court may:

- Dismiss the appeal;
- Substitute for the decision appealed against 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.

**13.4** 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 2. 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~~ *Cumulative impact vs need*

- 15.1** The concept of cumulative impact has been used since the commencement of the Act and 'Cumulative impact assessments' were introduced Act by the Policing and Crime Act 2017 on 6 April 2018. Cumulative impact is the potential impact on the promotion of the Licensing Objectives of a number of licensed premises concentrated in one area. The 'need' for licensed premises concerns the commercial demand for another pub or restaurant or hotel and is a matter for the Council's Planning Authority and for the market. This is not a matter for the Authority in discharging its licensing functions or for this Policy and it ~~The Authority~~ will not seek to limit the number of licensed premises that will be permitted on the basis of 'need'. 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.
- 15.2** Where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 15.3** Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 15.4** Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises. It is such situations that cumulative impact could be considered.

### *Cumulative impact assessments*

- 15.5** A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new PLs and CPCs and applications to vary existing PLs and CPCs in a specified area.

**15.6** The legislation and Guidance describes the process to publish a CIA, which clearly states that there must be an evidential basis for the decision and also outlines the types of evidence that should be considered.~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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*

**15.7** At time of publication of this Policy ~~Statement~~, no special CIA cumulative impact policy is in place has been published. However, 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 MALT (Section 14.0) will continue to regularly monitor the need for a ~~special policy~~CIA.

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

- Planning controls;
- West Lancashire CSP – which works towards, and supports initiatives designed to have a positive impact on, maintaining a safe environment throughout the Borough, including best practise schemes such as Best Bar None or Pubwatch;
- Community Protection Notices;
- The provision of CCTV surveillance;
- The power to designate parts of the Borough as places where alcohol may not be consumed publicly;
- The confiscation of alcohol from adults and children in designated areas;
- 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);
- Raising a contribution to policing the late night economy through the Late Night Levy;
- Early Morning Alcohol Restriction Orders.

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## 16.0 Provisional Statements

**16.1** Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, investors may be unwilling to commit funds unless they have some assurance that a PL covering the desired licensable activities would be granted for the premises when the building work is completed. 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). In such cases, where sufficient information may not available to allow the Authority to issue a PL which would include the date on which it would come into effect, a person (if an individual aged 18 years or over) who has an interest in the premises may apply for a Provisional Statement if they have an interest in the premises.

**16.2** The procedure for a provisional statement is detailed in the legislation and Guidance. 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. Accordingly, the PL 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.

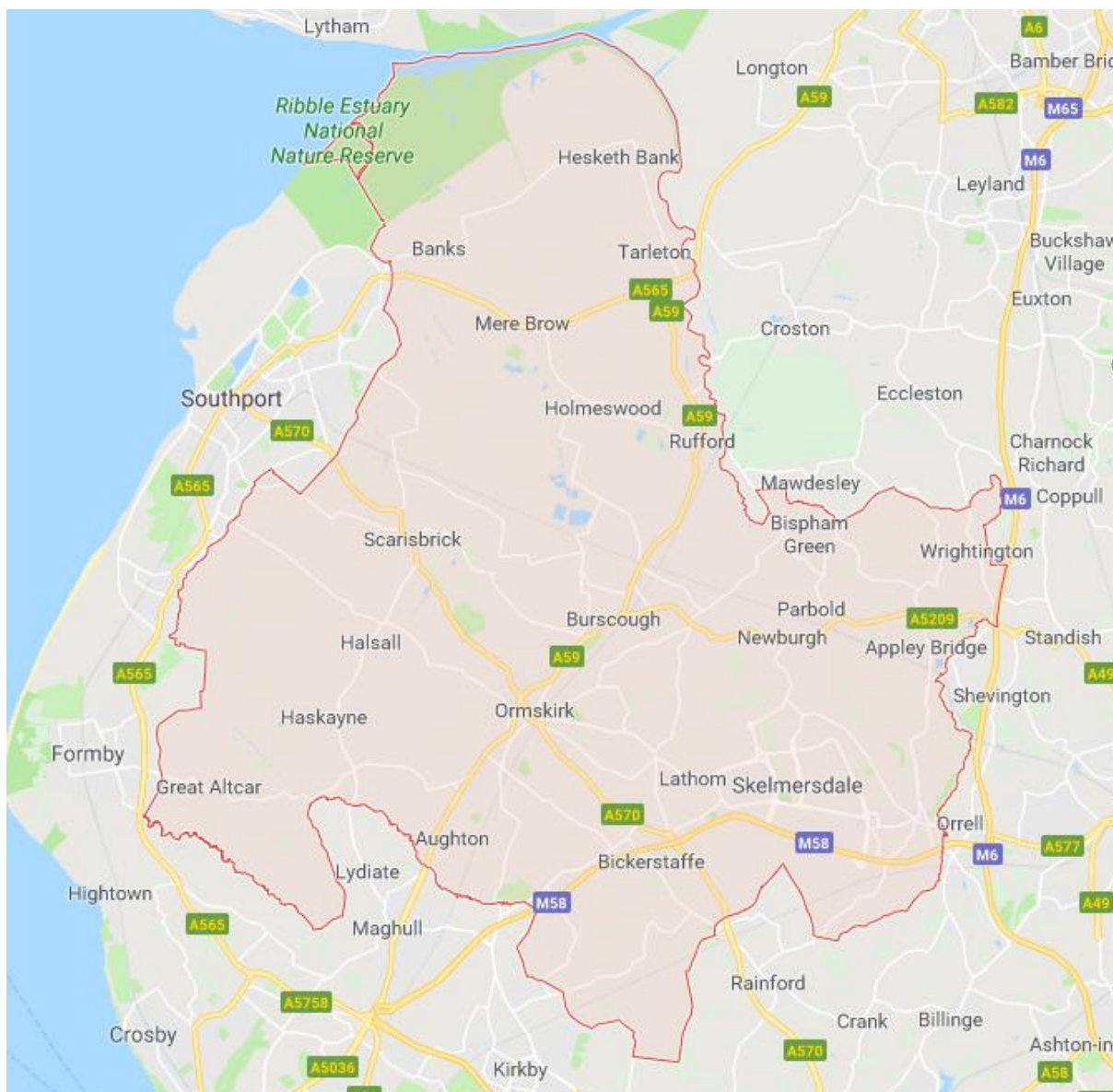
**17.3** A person is deemed to be connected to the former holder of a PL, if:

- 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: Useful contacts

### Licensing Service:

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/licensing](http://www.westlancs.gov.uk/licensing)

### 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)

### Fire Safety:

Lancashire Fire and Rescue Service  
Fire Safety Officer - Skelmersdale Fire Station  
Tanhouse Road, Skelmersdale,  
Lancashire WN8 9NN  
Telephone: 01695 723853  
Fax: 01695 731172  
Email: [skelmersdaleFireSafety@lancsfireandrescue.org.uk](mailto:skelmersdaleFireSafety@lancsfireandrescue.org.uk)

### 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)

### 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)

### 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)

### Protection of children:

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

### Trading Standards:

Lancashire County Council  
Licensing  
County Hall  
Pitt Street  
Preston  
Lancashire PR1 0LD  
Telephone: 01772 533569  
Email: [tsgeneralmail@lancashire.gov.uk](mailto:tsgeneralmail@lancashire.gov.uk)

### Director of Public Health:

Lancashire County Council  
Licensing, Level 1 Christ Church Precinct  
County Hall  
Preston PR1 8XB  
Telephone: 0300 123 6701  
Email: [PHLicensing@lancashire.gov.uk](mailto:PHLicensing@lancashire.gov.uk)

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 [Digital](#), Culture, Media & 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)