



Blackburn with Darwen Borough Council

Statement of licensing policy

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Introduction

Blackburn with Darwen Borough Council (“the Authority”) recognises the contribution that the entertainment industry makes to the economy of the borough. The borough also has a substantial residential population whose enjoyment of their property and the locality the Authority has a duty to protect. In addition commercial occupiers of premises also have an expectation of an environment that is attractive and sustainable for their businesses.

This document sets out the licensing policy of the Authority as required by section 5 of the Licensing Act 2003 (“the Act”). This policy sets out the general approach and procedures that the Authority will take in determining premises licences under the Act, although every licence application must be considered separately on its individual merits. This policy also sets out the approach to be adopted when determining personal licences.

In determining this policy the Authority has taken account of the guidance issued by the Department of Culture, Media and Sport (DCMS), the licensing objectives and the results of an extensive raising awareness campaign and consultation exercise undertaken. As determined by section 5 of the Act the Authority has consulted with a number of parties, including but not limited to:

- The Chief Superintendent of Lancashire Constabulary
- Lancashire Fire Authority
- Representatives of local premises licence holders
- Representatives of local holders of club premises certificates
- Representatives of local businesses
- Representatives of local residents
- Representatives of local personal licence holders
- Other interested parties

The comments/observations from the statutory consultees have been given proper weighting. The views of all persons or bodies consulted have been given proper weighting. This policy has not been developed in isolation but has been developed in conjunction with the extended Association of Greater Manchester Authorities group and the Lancashire Licensing Group and takes account of the position in adjoining authorities whilst being tailored specifically to the needs of this Authority.

Blackburn with Darwen Borough Council – The Authority

The borough of Blackburn with Darwen is in East Lancashire. The borough covers an area of approximately 13,700 hectares and contains a population of approximately 137,000 people in 51,200 households within two compact towns and a number of small villages in the surrounding rural and moorland areas. The towns of Blackburn and Darwen are four miles apart, but the growth of both towns has resulted in an almost continuous urban development along the A666. The vast majority of the population use the borough’s shopping, leisure, employment and educational facilities.

This area of East Lancashire is currently undergoing large-scale regeneration and consideration will be given to the Blackburn with Darwen borough local plan and the policies, aims and strategies contained within that plan and other policies of the Authority.

Blackburn

The town of Blackburn has a population of 102,000 people in 35,000 households. The urban area is characterised by 19th century housing in the core areas together with a close land use mix of housing, industrial and commercial areas.

Darwen

The town of Darwen has a population of 32,000 people in 12,700 households. Most of the development in Darwen is fairly small scale and rarely above two storeys. Unlike Blackburn, there are no clearly defined large industrial areas and the industrial and commercial premises are scattered throughout the town.

Aspirations for the Town

The vision for Blackburn town centre is of a family friendly town that is successfully meeting the varied local needs of the diverse local community of Blackburn, the Borough and wider sub region. This will involve investing in the town centre to ensure local shopping, cultural, entertainment and employment needs are met. This will be achieved by radically improving accessibility to the town for all people, continuing to invest in its core attractions and promoting a wide range of day and evening time activities in Blackburn that will ensure it is a safe, attractive, vibrant and enjoyable place to be.

The night time economy plays a significant role in achieving this vision. Our ambitions and aspirations are to 'open up' the town centre to a more diverse offer ensuring it is a rewarding and enjoyable place to visit for all customers.

Blackburn Town Centre Strategy 2010-2025 includes a number of objectives to support the delivery of these ambitions. These are :

1. Encourage local people to use the heart of the town centre beyond the end of the working day by encouraging appropriate evening uses to locate in the town centre.
2. Improve accessibility to the town in the evening with public transport services and safe, secure and accessible parking.
3. Create viable trading locations for new cafés, bars, restaurants and leisure operators to locate in, with spaces for them to cluster together.
4. Capitalise on opportunities for student and other events such as 'showcases' and build on existing good links between the College and the town centre.
5. Encourage the introduction of more family friendly uses and activities in the heart of the town centre to complement and link to the attractions at the Peel Leisure and Retail Park.

To achieve this, we would encourage more quality restaurants, cafes, food establishments and venues offering entertainment and family friendly activities.

We would be particularly keen to see licensed establishments that moved away from being purely late night alcohol-led to ones which operated throughout the day and evening, with a focus on serving food.

Small cluster developments would be allowed, particularly around the Sudell Cross, Northgate, Blackburn College and Cathedral Quarter areas.

Leisure and evening economy venues that helped to create new leisure circuits would be supported.

The physical regeneration of the town centre will provide new opportunities for the leisure and evening economy and the take up of space by major regional and national operators will be welcomed.

Relevant documents:

Blackburn Town Centre Strategy 2010-2025 (July 2010)
Blackburn Town Centre Leisure and Evening Economy Study (July 2009)

Who is affected by the Licensing Act?

The activities which require a licence under the provisions of the Licensing Act 2003 and which are covered by this policy statement include:

- The retail sale of alcohol.
- Supply of alcohol to members of a club.
- The provision of “regulated entertainment” to the public, members of a club or with a view to making a profit, including fundraising for charity, where the entertainment includes:
 - The performance of a play
 - The exhibition of a film
 - An indoor sporting event
 - Boxing or wrestling
 - The performance of live music
 - The playing of recorded music
 - A dance performance
 - The provision of entertainment facilities for dancing or making music.
- The supply of any hot food or drink between 23:00 and 05:00 hours whether for consumption on or off the premises.

The number of premises licences that this authority could be required to licence are as follows:

Public houses **171** (*)

Licensed clubs **43** (*)

Hotels and restaurants **34** (*)

Retail outlets (off licences, supermarkets, takeaways, etc) **224** (*)

Entertainment premises (cinemas, theatres, halls) **5** (*)

Other (public halls, parks, sporting venues, service stations) **32**(*)

(*) Please note numbers are approximations

Legal Background to this statement of Licensing Policy

The Licensing Act 2003 received royal assent in July 2003. The Act repeals most of the existing legislation relating to liquor, entertainment and night café licensing and has replaced it with a new regime. Under this regime the responsibility for administering liquor licensing has been transferred from the magistrates' court (Licensing Justices) to the local authority.

As a result of this transfer the Authority has now been designated with the function of administering all applications for the sale of alcohol, the provision of entertainment and late night refreshments. The Authority may attach conditions to licences which it grants, those conditions will be designed to ensure safety, protect children from harm, prevent crime and disorder and protect residential amenity. It is intended that such conditions will be tailored for each individual premises; standardised conditions will be avoided by the Authority.

The ability of local authorities to make decisions will be regulated by the Act and regulations made under the Act. The Department of Culture, Media and Sport (DCMS) will publish guidance to which the Authority must have regard. The Authority may, if it considers necessary, deviate from the guidance but would need good reasons to do so.

This statement of licensing policy has taken account of current DCMS guidance and the LACORS (Local Authority Co-ordinators of Regulatory Services) licensing policy framework.

In addition, in formulating this statement, the Authority has had regard to the provisions of the Human Rights Act 1998. It would be unlawful for a public authority to act in a way that is incompatible with a convention right.

The Authority has also taken account of the provisions of the Crime and Disorder Act 1998, Violent Crime Reduction Act 2006 and the Alcohol Harm Reduction Strategy.

Since the introduction of the Licensing Act 2003 there have been many legislative developments. Applicants and current licence/certificate holders should ensure that they keep abreast of any legislative and/or procedural changes on an ongoing basis.

Finally, in considering any application made pursuant to the Licensing Act 2003 the Authority will have regard to this statement of licensing policy.

The licensing objectives

Section 4 of the Act sets out the licensing objectives which the Authority is under a duty to promote and consider when discharging its functions under the Act. The objectives are:

1. The prevention of crime and disorder;
2. Public safety;
3. The prevention of public nuisance;
4. The protection of children from harm.

The Authority considers that each of the four licensing objectives is of equal importance for the purpose of this policy and recognises that it must promote these objectives when carrying out its licensing functions.

The Authority takes the view that the objective of the licensing process is to allow for the provision of alcohol, regulated entertainment and late night refreshment in a way that ensures public safety and is not a detriment to the amenity of the local residents or businesses. This policy statement is therefore designed to deal with matters within the control of the licence holder and will focus on the impact of the activities taking place upon those living, working or otherwise engaged in the area concerned.

Where the responsible authorities and interested parties (persons living in the vicinity of the premises or bodies representing them and local businesses in the vicinity or bodies representing them) do not raise any representations about the application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the 2003 Act itself.

The Licensing Authority may not, therefore, impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. This would allow proper liaison before representations prove necessary.

The Authority will consider all relevant representations made to it by relevant authorities and persons living or working in the locality within the prescribed period. Every relevant representation will be considered save where they are considered to be frivolous, vexatious or repetitious.

This statement of licensing policy will be subject to constant review. Notwithstanding this it will be reviewed in its totality every three years. The first **and second** statutory three year periods began on 7 January 2005, **and 7 January 2008 respectively**. Subsequent three year periods begin on 7 January 2011 and are fixed and would not be altered by any other revisions that a licensing authority may chose to make within a period, or by any determination of a new policy.

The policy document

The policy statement is designed to deal with matters within the control of those responsible for the licence and is centred on the premises on which the business is carried on and the effect that the "carrying on" of that business has on the area in which it is situated. To achieve these objectives the authority will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The Authority will enter into appropriate partnership arrangements, working closely with the police, the fire authority, local businesses, community representatives and local people to meet these objectives.

Background: the consultation process

In September 2003 the Authority undertook an awareness-raising campaign. The purpose of that campaign was to communicate the Licensing Reforms to all interested/affected parties throughout the borough. That campaign involved the publication of a questionnaire seeking to ascertain the views of the general public and affected trades. It involved the direct distribution of 55,000 copies of a questionnaire throughout the borough and 420 direct mailshots to affected businesses. The results of this campaign provided the basis for the draft statement of licensing policy.

Between December 2003 and July 2004 the Authority continued the awareness raising campaign by:

- Holding licensing dinners attended by the trade
- Visiting community groups
- Inviting interested/affected parties to attend discussion groups

Throughout this awareness raising campaign individuals were taken through the draft policy and invited to comment upon its contents. All responses were given consideration when drafting amendments to the policy.

On July 7 2004 Guidance for the Act was issued by the Department for Culture, Media and Sport indicating that the first appointed date would be February 7 2005. In August 2004 the Authority began formal consultation on the contents of the policy. This involved distributing a questionnaire throughout the borough via the Shuttle, direct mailshots to affected businesses and bodies representing those groups and meetings of the steering group. Formal consultation ended at 4pm on 31 October 2004, when the results of the consultation process were considered and, where appropriate, incorporated into the licensing policy document.

When this policy came into force

Following the consultation process, and in line with regulations issued pursuant to the Act, this policy was presented to Blackburn with Darwen Council on 13 December 2004. It was the decision of the Council that the policy should be adopted and should provide the framework for the fulfilment of the Authority's licensing responsibilities and functions. This policy came into force on 7 January 2005 and was subsequently amended after a full consultation in November 2007 and September 2010.

Procedures

Please note this section is intended for general information only. Any specific query relating to the application process should be addressed directly to the licensing department.

(1) The application

(A) Personal licences

Applications for personal licences are required to be made by completing a standard application form. Only the police can object to the granting of a personal licence and an application will be deemed granted unless there is a police objection to the application.

Where there is a police objection the application will be referred to a licensing sub-committee for adjudication. It should be noted that DCMS guidelines recommend that where there is a police objection, refusal of the application should be the normal course unless, in the opinion of the licensing sub-committee, exceptional and compelling circumstances justify granting the application.

(B) Premises licences

An application for a premises licence must be made to the Authority in the prescribed form and be copied to each responsible authority details of which can be found at the end of this policy. An application must be accompanied by the required fee, an operating schedule, a plan of the premises and, for applications involving the sale of alcohol, a form of consent from the designated supervisor. An application for a premises licence will not be accepted by the Authority unless it is complete.

Applicants should note that the contents of their operating schedule will form conditions of their licence.

In considering the following policy statement an applicant should be aware that not all requirements will have reference to their premises/application. An applicant should give proper regard to the following factors, where necessary or appropriate to their business, when completing their application and operating schedule:

- (1) The type of premises.
- (2) The licensable activities for which they are applying.
- (3) The locality.
- (4) The size of venue

(C) Who can object to an application?

In respect of premises licences, the Licensing Act 2003 has determined which parties can object to an application. The section defining relevant authorities and interested parties can be found at section 13 of the Act but is repeated in part here:

(1) Responsible authorities

These are the police and fire authorities, the authority responsible for environmental health, planning, health and safety and licensing functions, any local authority that is not a licensing authority but where part of the premises lies on their land; and the crime and disorder reduction partnership. In the case of boats or similar vessels, the Environment Agency and the British Waterways Board are also responsible authorities for the purpose of the act.

(2) Interested parties

These are persons living in the vicinity of the premises, or bodies representing them, and local businesses in the vicinity of the premises, or bodies representing them including residents' associations and forums for local businesses see www.lacors.gov.uk/Lacors/ContentDetails.aspx?authCode=92A49D&id=15112. Objections do not have to come from individual residents or businesses. Any of the interested parties may ask another body or person to represent them. This body could be someone legally qualified or an MP, MEP or ward councillor.

Where a councillor is a member of the licensing committee they may agree to make representations on behalf of an interested party or **make them in their own right**. Members of the licensing committee are invited to consider "Elected Member Guidance on the Licensing Act 2003" issued by LACORS and model code of conduct issued on 3 May 2007 see www.lacors.gov.uk/Lacors/ContentDetails.aspx?authCode=30B1CC5&id=23187

Since the introduction of the Policing and Crime Act 2009 the definition of "Interested Parties" has been extended to include – "a member of the relevant Licensing Authority" ie elected councillors of the licensing authority for the area in which a premises is situated.

The same public groups may also write in support of an application.

All representations will be considered by the Authority and given the appropriate weighting. **There is no provision for a licensing authority to make representations itself, and in the absence of any relevant representations The Authority is obliged to issue the licence on the terms sought.**

(2) The hearing

Where a relevant objection is received by the Authority in respect of either a premises or a personal licence the application will be referred to a licensing sub-committee for determination within the prescribed period.

The licensing sub-committee will consist of three elected members. Applicants will be invited to attend to make representations in respect of their application. Those individuals or bodies that have made relevant representations, for example the police, will also be invited to address the sub-committee on the basis for their

objection. Representatives of the Authority's licensing department will attend the hearing to detail the administrative processes undertaken/reasons for the referral to the sub-committee.

Except in exceptional circumstances those entitled to make representations at any hearing of the sub-committee will be limited to those who have made a relevant representation within the statutory time limit provided by regulations. This policy will not define exceptional circumstances however where they arise the committee have the discretion to allow additional representations to be made to them. In deciding whether to allow them the committee should consider the following:

- The prejudice to the applicant
- The relevance of the representation
- The ability of the applicant to answer the representation.

Where the representation is relevant but the applicant is unable to adequately deal with it at the hearing it is open to the committee to adjourn the hearing to a later date. In doing so the committee must consider any prejudice to the applicant that the delay may cause.

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Relationship between policy statement and other statutory requirements

This policy will not seek to regulate matters which are dealt with by other legislative provisions, for example planning, health and safety, employment rights, fire safety etc. The Authority will have regard to representations made by relevant authorities with responsibility for these areas. The Authority will also have regard to any applicable policy that a body exercising these delegated functions has adopted, for example the transport policy.

General principles

Whilst considering the contents of this policy statement and relevant representations, the Authority will determine each application for a licence under the Licensing Act 2003 on the individual merits of the application and consider the permissions requested.

The Authority will not seek to introduce “zones” within the borough where specific activities are concentrated.

The Authority will not seek to introduce fixed hours during which alcohol can be sold but will ensure that the four licensing objectives remain paramount. However, the Authority wishes to encourage licensees to provide a wide range of entertainment activities throughout their opening hours and to promote activities that provide a wider cultural benefit for the community and will consider this when determining applications. Further to this, the Authority will seek to monitor the impact of licensing upon the provision of regulated entertainment, particularly live music and dancing.

The local authority will consider publishing a policy to encourage live music, dancing and theatre within its boundaries. Included within this the local authority might obtain from the licensing authority, premises licenses for public spaces within the community. These areas might be used by performers, with the permission of the local authority, to advance and promote cultural performances.

The Authority recognises the problems associated with binge drinking and encourages approaches from applicants to ensure responsible drinks promotions are incorporated into operating schedules. In considering what is an irresponsible drinks promotion the Committee will consider the definitions contained at Appendix 1.3. The Authority will view dimly any premises associated with, or individual convicted of, offences associated with alcohol sales. In these circumstances it is likely that any licence issued will be subject to review by the Authority.

Where relevant representations are received the Authority will not impose standardised conditions; conditions will be tailored to the individual premises and events concerned and will be linked to one of the licensing objectives.

The Authority recognises partnership working and notes that to successfully deliver the objectives of the Licensing Act 2003 they must work together with the following when determining an application:

The planning authority
Environmental health service
The trading standards service
The crime and disorder reduction partnership
Health and safety service
Lancashire Constabulary
Lancashire Fire and Rescue
Community Safety Partnership
Town centre management
Local businesses
Performers and their representatives
Local people
Local transport authorities
Transport operatives
Child protection agency/children's services

General matters to consider:

(1) Integration Strategies and Avoiding Duplication

There are many stakeholders in the leisure industry, 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.

Many of their strategies deal in part with the licensing function, and The Authority will establish appropriate liaison arrangements to ensure proper integration of local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies.

The Authority will liaise with the police regarding the need for the swift and safe dispersal of people from the town centre to avoid concentrations that can produce disorder and disturbance.

(2) Planning and building control

Planning permission is usually required before the establishment of new premises and/or the change of use of premises.

Planning permissions that are relevant to licensed premises, at the time of adoption of this policy, include:

- Use for the sale of food or drink for consumption on the premises (use class A3) or where hot food is sold for the consumption off the premises (use class A5);
- Retail shop licensed for the sale of liquor (use class A1);
- Assembly and leisure uses; e.g. concert hall, dance hall, indoor/outdoor sports and recreation (use class D2).

New applicants should make enquiries with the planning department to ensure that use classes have not been amended and/or the suitability of their premises for the type of regulated activities they seek to licence (i.e. late night food).

Any decision in relation to a planning application is entirely distinct from any decision in relation to licensing. Where licensing consent is granted and no planning permission has been obtained, this does not enable the premises open, and Applicants should be aware to do so may lead to enforcement action being taken. It should also be noted that the granting to an applicant of a licence which involves a material alteration to a building does not relieve the applicant of the need to obtain the required planning permission from the planning authority or building control where appropriate; neither does it guarantee the grant of the same.

There are also circumstances when, as a condition of planning permission, a closing time has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.

The licensing committee will provide regular reports to the planning committee detailing licensed premises within their area, including the impact of alcohol related crime and disorder.

Licensing applications will not be a rerun of the planning application and licensing decisions will not cut across decisions taken by the planning committee or permissions granted on appeal. However, it should be noted there is no legal basis for The Authority to refuse a licence application because it does not have planning permission.

(3) Transport

The Authority recognises council strategy in relation to transport as set out within the transport policy document.

In determining an application the Authority will have regard to the need to disperse people away from the town centres and other areas swiftly and safely. Applicants should demonstrate the measures that they have taken to facilitate this, where appropriate to their business.

Protocols will be drawn up between Lancashire Constabulary and other licensing enforcement officers.

Annual reports will be provided to the licensing committee detailing the arrangements made to enable the dispersal of people from town centres swiftly.

(4) Tourism and employment

The Authority recognises that it is necessary for the licensing committee to receive reports on the needs of the local tourist economy and cultural strategy for the area. Reports detailing the same will generally be made available to the licensing committee annually. More frequent reports will be provided should it be deemed necessary.

The Authority will also keep the licensing committee updated in respect of the employment situation in the area.

(5) Other statutory requirements/provisions

The Authority has other statutory requirements to consider which may apply to and impact upon the provision of any regulated activities at premises, for example health and safety or food safety. The responsibility for compliance lies with the licence holder. It should be noted that so far as is possible this policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. the Health and Safety at Work Act 1974, the Environmental Protection Act 1990, disability discrimination legislation or the Fire Safety Regulatory Reform Order. The Authority will only attach conditions to licences in respect of public safety where they are necessary for the promotion of that licensing objective.

The Authority may take account of any non-compliance of other statutory requirements when determining an application where that non-compliance undermines the licensing objectives set out above.

(6) Human rights

The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with a convention right.

The Authority will have particular regard to the following relevant provisions when determining an application:

Article 1 that every person is entitled to the peaceful enjoyment of his or her possessions.

Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 that everyone has the right to respect for his home and family life.

(7) Race Equality

The Authority is fully aware of its duties under the Race Relations Act 1976, as amended by the Race Relations Act (Amendment) Act 2000. In particular it notes that a legal obligation is placed on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

When exercising its duties under the Act the Authority shall ensure that it acts in accordance with those duties referred to in the preceding paragraph.

(8) Disability Discrimination Act 1995

The Authority reminds applicants that they must be clear of their responsibilities under the Disability Discrimination Act 1995.

(9) Integrating strategies

The Authority will continue working in partnership to address such wider issues as transportation, tourism and cultural strategies, in addition to the responsibilities identified by government strategies such as safer clubbing, alcohol harm reduction strategies, drugs, venue policy etc.

(10) Cumulative impact

The Authority will not seek to limit the number of licensed premises that will be permitted within the boundaries of the borough merely because the Authority considers there are enough premises to satisfy demand. The issue of demand or "need" is a commercial decision and is not a matter for this policy.

The "cumulative impact" of the granting of an additional licence on the promotion of the licensing objectives is a matter that the Authority can properly consider under this policy and the Authority may adopt a saturation policy (or special policy) should it be deemed necessary at any time. It is proper for the Authority to

consider the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises when seeking to promote the licensing objectives.

Where the Authority receives representations from a responsible authority or an interested party, as defined by the Act, that the cumulative effect of new licences is leading to an area becoming saturated with licensed premises, making it a focal point for large groups to gather in, and circulate away from, and creating exceptional problems of disorder and nuisance over and above the impact of individual premises, The Authority can properly consider whether or not the granting of an additional licence might lead to one or more of the licensing objectives being undermined and whether a saturation policy should be adopted for that area.

The Authority will not use the principle of cumulative impact to impose quotas of any kind that would pre-determine any application. The Authority will not impose general limitations or restrictions on trading hours in any particular area.

The Authority recognises that licensed premises may vary considerably in relation to their operating styles and characteristics and proper regard will be had to those differences and their likely impact on the local community.

The Authority also recognises that a minority of customers may behave badly. This policy statement cannot address issues relating to the behaviour of individuals or groups unless in the immediate vicinity of the licensed premises. However, it is part of a framework of measures which together can be used to address behavioural problems. These include, but are not limited to:

- Planning controls;
- On-going measures to provide a safe and clean environment;
- Considering designation of areas concerning confiscation of alcohol;
- Enforcement of legislation relating to disorder, anti-social behaviour, underage drinking;
- Police closure of premises;
- Powers of review of licences.

(11) Saturation controls

In determining whether to adopt a saturation policy for a particular area, the Authority will consider amongst other things:

- Evidence/identification of serious and justified concerns from a responsible authority or local residents about nuisance and disorder;
- The area from which problems are arising and the boundaries of that area;
- The assessment of the causes;
- Adopting a policy concerning future applications from that area.

Representations may be received from a responsible authority/interested party that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating problems of disorder and nuisance over and above the impact from the individual premises.

In these circumstances, the Authority may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.

For the sake of clarity any such special policy would not only relate to applications for new premises but also to any applications for variations which deal with increases in capacity or hours.

The Authority will take the following steps when considering whether to adopt a special saturation policy:

- Identification of serious and chronic concern from a responsible authority or representatives of residents about nuisance and disorder;
- Where it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises; identifying the area from which problems are arising and the boundaries of that area;
- Assessing the causes;
- Adopting a policy about future licence applications from that area.

The Authority will consider representations based on the impact on the promotion of the licensing objectives of the grant of the particular application in vicinity of the premises in question.

However, the onus would be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.

Once a special saturation policy is adopted then it creates a rebuttable presumption that any application for a new licence or a major variation will be refused if relevant representations to that effect are received.

Once adopted the Authority will review any special saturation policies on a regular basis to see whether they have had the effect intended, and whether they are still needed.

The Authority will not use such policies solely:

- As the grounds for removing a licence when representations are received about problems with existing licensed premises; or,
- To refuse modifications to a licence, except where the modifications are directly relevant to the policy; for example where the application is for an increase in the capacity limits.

The Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.

It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.

Before adopting a saturation policy the Authority will consult all parties that statute requires them to consult.

If a saturation policy is adopted it will be subject to continuous review. Notwithstanding this it will be reviewed every three years to assess the usefulness of the policy.

It should be noted that the absence of a saturation policy does not preclude a responsible authority or interested party from objecting to an application on the basis of saturation.

(12) Licensing hours

The Authority recognises the views of central government that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents and businesses.

The Authority recognises that fixed closing and artificially early closing times in certain areas can lead to peaks of disorder/disturbance due to large concentrations of people leaving premises at the same time.

The Authority recognises that longer licensing hours can contribute to easing disorder/problems that often occur at late night food premises, taxi ranks, private hire offices and other transport sources.

The Authority does not intend to set fixed trading hours within areas, nor will any form of zoning be introduced because this could lead to the significant movement of people from one area to another. Notwithstanding this every application will be considered having regard to the available resources of Lancashire Constabulary to ensure that the operation of premises does not undermine the objectives relating to crime and disorder and public nuisance.

Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises at any time during their normal opening hours. However, a limitation on licensing hours may be imposed in relation to individual premises if representations are received from a responsible authority or interested party and the premises are identified as a focus for crime and disorder or general disturbance.

The Authority will consider each application on the merits of that application. However, as far as premises in residential areas are concerned, where a relevant representation is received, supported by clear evidence of a nuisance, more stringent conditions may be imposed so as to ensure that disruption to local residents is minimal.

The Authority will consider each application on the merits of that application; however, whilst not intending to bind itself the Authority recognises the demand for longer licensing hours at weekends and bank holidays.

However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be paramount considerations at all times.

(13) Promotion of live music, dance and theatre

The Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. The Authority is aware of the value to the community of a broad range of cultural entertainments and wish to encourage them for the benefit of all. When attaching conditions to licences the Authority will seek to avoid measures that are detrimental to live music, dancing and theatre, however this will be weighed against the need to promote the four licensing objectives.

Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.

Applicants will have mind to the fact that when determining whether a performance of live music is considered to be regulated entertainment or incidental to another licensing activity the Authority will have regard to, amongst other things:

- The frequency/regularity of events
- Whether the performance would act as an inducement to customers.

To promote live music, dance and theatre the Authority may seek to licence appropriate parks and open spaces for use by the community. We will consider any request for permission to use such public spaces for cultural activities.

Only conditions strictly necessary for promotion of the licensing objectives should be attached to licences. The Authority is aware of the need to avoid unnecessary or disproportionate measures that could deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

Where a designated public place order (DPPO) is in place on a licensed premises or park, the DPPO will cease to have effect when the licence is being used for alcohol sales and 30 minutes after. The DPPO will have effect at all other times.

(14) European Services Directive

The EU Services Directive was introduced to develop a single market for services by breaking down barriers to cross border trade within the EU and making it easier for service providers within scope to set up a business or offer their services to other EU countries. The Directive requires that all notices and authorisations in the scope area are able to be completed electronically and via a "single point of contact".

The Directive was implemented in the UK on 28th December 2009 by the Provisions of Services Regulations 2009. The UK point of single contact is the Electronic Application Facility which is part of the www.businesslink.gov website.

Although only regulated entertainment is a "service" as defined under the directive, the Government has extended the electronic application process to all regulated activities under the 2003 Act and to all authorisations and notices with the exception of applications for renewals of personal licences, reviews and representations. Guidance on the new application process is provided in paragraphs 8.27 – 8.35 of the Guidance issued under S182 of the Licensing Act 2003 by the Department for Culture Media and Sports (DCMS). It should be noted that the Guidance is regularly updated and therefore references to the above paragraphs may change throughout the life of this policy. You are advised to contact the DCMS for the latest version of the Guidance before submitting any application.

Specific considerations for the sub-committee

(1) The protection of children from harm

For the purpose of this policy the term “children” means those individuals aged under 18 years of age.

The Authority recognises that a wide variety of premises will be licensed, including theatres, cinemas, restaurants, public houses, night-clubs, cafes, hot food takeaways, schools and community halls. The Authority does not generally seek to limit the access of children to licensed premises. Access will be at the discretion of the licence holder and is neither encouraged nor discouraged by this policy statement. When considering an application the Authority may consider it necessary to limit access to licensed premises in order to protect children from harm.

Where appropriate to their business the Authority requires applicants to address admittance of children onto premises within their operating schedule; consideration by the applicant may be given to:

- The age of children to be admitted to the premises.
- The times at which children will be admitted to the premises.
- The circumstances under which children will be admitted to the premises.
- Where children are to be admitted unsupervised or a premises intends to offer special events for children, the means by which they will ensure the safety of children following the termination of the event, for example, ensuring that children are picked up from the venue.

Examples, which may give rise to concern in respect of children, would include:

- Where there have been convictions for serving alcohol to those aged under 18 or the premises have a reputation for underage drinking;
- Where the premises have a known association with drug taking or drug dealing;
- Where there is a strong element of gambling ongoing at the premises;
- Where entertainment of an adult or sexual nature is provided.

In these circumstances, the Authority will take all necessary steps to prevent harm to children by considering the imposition of conditions which would:

- Limit the hours when children may be on the premises;
- Limit the age at which children may be permitted to enter premises;
- Limiting or excluding access when certain activities are taking place;
- Permit access only when accompanied by an adult;
- Restrict such activities as may be necessary to achieve the licensing objectives.

A complete prohibition on children entering licensed premises is rarely likely to be necessary. Conversely, the Authority will not impose a condition that specifically requires access for children to be provided at any licensed premises. The Authority strongly encourages applicants to demonstrate within their operating schedules a clear indication of the steps they will implement to protect children from harm. The Authority encourages applicants to give/demonstrate serious

consideration as to the suitability of their premises for supervised/unsupervised children.

The Authority recognises the Area Child Protection Committee as being competent to advise on matters relating to the protection of children from harm. Applicants are required to provide a copy of their application to the Area Child Protection Committee for their consideration.

Where the Authority receives an application for the granting of a licence for premises which involve a sex related element in a location near schools, places of worship, hospitals, youth clubs or other premises where a significant number of children are likely to attend. The Authority would expect the applicant to have given specific consideration to steps designed to ensure that children are not admitted and cannot witness these activities and to prevent crime and disorder problems.

Where an applicant seeks to hold a special event designed specifically for children, the Authority strongly supports the supply of staff from agencies where there have been checks into the backgrounds of those persons working with children. The Authority further considers this to be desirable in circumstances where adults are going to be closely involved with children.

Reason:

The protection of children from harm is a fundamental principle which runs throughout the four licensing objectives. The raising awareness campaign confirmed that there were concerns relating to the admittance of children to premises where unsuitable types of entertainment were being offered. There were also concerns raised relating to the admittance of children to premises where alcohol is the principal item on sale. The Authority recognises these concerns and will seek to ensure that children are not admitted to premises where they could be subjected to moral, psychological or physical harm.

The policy does not seek to prevent the access of children to licensed premises/ Access is at the discretion of the licensee and is neither encouraged nor discouraged by the policy. Conditions relating to access of children will only be imposed where they are necessary to promote the licensing objective of the "protection of children from harm".

Premises that may require conditions relating to access by children may include the following:

- Where there have been convictions for under-age drinking or where there is evidence of under-age drinking;
- Where there is evidence of drug taking or drug dealing;
- Where a strong element of gambling takes place on the premises;
- Where entertainment of an 'adult' or 'sexual' nature takes place.

On occasions it may be necessary to impose a condition on a premises licence banning entry to those premises by children under the age of 18 years. Options other than a complete ban will include the following:

- Limiting the hours when children will be permitted in the premises;
- Stating a minimum age (below 18);
- Limiting or prohibiting access when certain activities are taking place;
- Permitting access only when accompanied by an adult;
- Limiting of access to certain parts of the premises when particular licensable activities are taking place;
- Provision of suitable signage;
- All premises supplying/selling alcohol are encouraged to operate a Challenge 21, Challenge 25 or similar policy.
- Such other condition or restriction as may be necessary to achieve the licensing objectives. It shall be noted that there is no presumption in favour of adult entertainment unless specifically authorised.

A complete ban on children entering licensed premises is rarely likely to be necessary.

Nothing in this policy makes it a requirement that children must be admitted to any premises. Licensees are not to provide alcohol to children, except as provided by the Act. The Authority expects applicants to be able to demonstrate that they have in place satisfactory arrangements to prevent sales of alcohol to children. The Authority recommends that the following documents should be used as evidence of age:

- Passport;
- Photocard driving licence issued in the European Union;
- Photographic Identity Card bearing PASS hologram;
- Citizen card supported by the Home Office;
- Official ID Card issued by HM Forces or a European Union bearing a photograph and date of birth of the holder.

The Authority will expect the operating schedule to identify suitable measures to protect children from harm and must therefore demonstrate that those factors, which impact on harm to children, have been considered. In addition the licensing authority will expect the operating schedule to demonstrate what measures are in place to ensure adequate staff training on the licensing laws relating to children in licensed premises.

The licensing authority will also expect the licensee to demonstrate how they intend to provide for the supervision of children as customers and as performers providing regulated entertainment. Licence holders will be expected to demonstrate that consideration has been given to the welfare of children as

performers. As a minimum requirement the Authority will require an adult to be nominated to be responsible for such child performers.

Where there is entertainment specifically provided for children (for example children's disco) the Authority will require the presence of sufficient adults to control the access and egress of the children and ensure their safety.

The Authority will require persons working with children in respect of premises holder under 18 regulated entertainment to undergo an enhanced criminal record check before they are appointed.

The Authority recognise the Social Services for Blackburn with Darwen Borough Council or any future body incorporating the functions of a social services department as defined by statute, as being competent to advise on matters relating to the protection of children from harm.

Since the Council's Licensing Policy was last reviewed there has been the introduction of the Policing and Crime Act 2009 which has introduced new powers and offences relating to the sale and supply of alcohol to children. As stated earlier all applicants or existing licence/certificate holders should ensure that they continue to be aware of their obligations on an ongoing basis.

Children and Cinemas

Where a licence is granted for the exhibition of films it will be granted subject to a condition which requires the licensee to take all reasonable steps to prevent children gaining access to age-restricted films, which they are not old enough to view according to the British Board of Film Classification.

Where it is proposed to exhibit films not classified by the BBFC, the Authority will, providing adequate notice has been given, classify the films concerned using the guidelines published by the BBFC.

The Authority also retains the right to re-classify any films to be exhibited notwithstanding the BBFC classification if it considers it appropriate in the circumstances.

Children and Public Entertainment

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

Where a regulated entertainment is specially presented for children, the Authority will require the following arrangements in order to control their access and egress and to assure their safety:

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

- No standing to be permitted in any part of the auditorium during the performance.

The Authority will expect the submitted operating schedules to address satisfactorily these issues.

The Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions relating to the protection of children from harm.

(2) Public nuisance

When considering all licence implications, the Authority will consider the adequacy of measures proposed to address the potential for nuisance and/or public disorder, such as:

- Steps the applicant has taken or proposes to take to prevent noise escaping from the premises including music, noise created from ventilation equipment and human voices;
- Steps the applicant has taken or proposes to take to prevent disturbance by customers arriving at or leaving the premise;
- Steps the applicant has taken or proposes to take to ensure staff leave premises without causing disturbance;

When applicants are composing their operating schedule they are advised to seek advice from **Public Protection Service – Environmental Protection** and should apply their minds to the extent or likelihood that their business will impact upon public nuisance and provide such details as are necessary considering the size and impact of their business.

(2.1) Noise nuisance

In particular the Authority will expect an applicant (where relevant) to propose practical steps to prevent disturbance to local residents and businesses, appropriate steps to be taken will depend upon the size and the nature of the business and the applicant should have regard to this.

In relation to noise from within the building, where appropriate, the Authority will expect the applicant to have carried out sound tests to ascertain whether there is sound leakage. Such tests may, in certain cases involve perimeter checks by the applicant in person. This noise could relate not only to music equipment but also to patrons. If there is a leakage the Authority will expect the applicant to demonstrate that this has been addressed in a practical manner, for example:

- (a) By keeping doors and windows closed and providing adequate mechanical ventilation.
- (b) Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate levels.
- (c) Installing soundproofing measures to contain sound and vibration.

The Authority will expect popular venues which attract queues to formulate a system to avoid disturbance to residents.

In terms of patrons leaving the premises, particularly late at night or early in the morning or in areas where local businesses may be affected at other times, the Authority would suggest the applicant to have included in their operating schedule such practical steps, for example, as:

- Erecting prominent notices at the exit to the premises requesting patrons to leave quietly and not to slam car doors.
- Instructing door staff to ask customers leaving the premises to keep noise to a minimum.

- Reducing the volume of music towards the end of the evening.

In this regard the Authority recognises the good practice advocated and utilised by members of the Bar U scheme, or any successor in title, in addressing problems of noise nuisance.

Where premises provide a beer garden or facilitate outside drinking areas the Authority expect the applicant to have applied their mind to the effects this might have on persons residing in the locality and to have addressed this in their operating schedule.

The Authority is aware of its powers pursuant to sections 40 and 41 of the Anti-Social Behaviour Act 2003 in that, where satisfied that a licensed premises is causing a public nuisance, an authorised environmental health officer may issue a closure notice in respect of a premises. Such a notice will remain effective for a period of 24 hours and will result in the premises licence being reviewed. This power will compliment and not replace police powers pursuant to the Act to temporarily close premises.

Reason:

One of the greatest irritants to local residents trying to sleep is noise nuisance escaping from licensed premises. Such an escape might preclude the grant of a licence or require the review of a licence with a view to possible revocation. It may also lead to a noise abatement notice being issued under the Environmental Protection Act 1990.

(2.2) Rubbish accumulation

The Authority requires every licensed premises in the borough to be responsible for the rubbish that their business generates. Premises will be responsible for ensuring that there are adequate receptacles for the disposal of rubbish in and around their premises.

The Authority recognises and supports the objectives of the Thrash the Trash campaign.

The Authority recognizes the government's voluntary code of practice for fast food and litter as good practice and encourages adoption of the same.

The Authority recognises the problems caused by advertisement leaflets handed out to prospective patrons. Applicants should be aware of the Authority's views on littering within the borough and take adequate steps to prevent this in relation to their premises. The Authority will take a dim view of applicants who have been prosecuted or cautioned in respect of littering offences.

Reason:

The effect of rubbish in the locality of their homes and businesses causes irritation to a wide class of persons. It is believed that the individuals or businesses responsible for generating rubbish should also be responsible for arranging adequate disposal of the same.

(2.3) Obnoxious smells

The Authority requires that every licensed premises within the borough be responsible for the odours that it produces. When considering an application for a licence the Authority will consider representations concerning the production of odours from a premises. The Authority recognises that the issue of odour nuisance is considered anti-social and therefore will seek to impose conditions, where appropriate, on premises to limit the emission of odours. Applicants are encouraged to address the measures that will be taken to limit the production of odour within their operating schedules.

Reason:

The effect of obnoxious smells upon persons living or working in the locality of the premises is recognised as profound. The Authority believes that the individuals or businesses responsible for the production of offending odour should be responsible for implementing systems to reduce or remove the odour.

(3) Public safety

The Authority notes that the public safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation.

For a licence to be granted the Authority will require operating schedules to satisfactorily address the issue of public safety and applicants are advised to seek advice from Public Protection Service – Environmental Health officers and the Fire Officer before preparing their plans and schedules. Consideration should be given in respect of the smoking legislation contained in The Health Act 2006. Applicants and licence/certificate holders should note that from 1st October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. As such any fire certificate issued under the Fire Precautions Act 1971 will have ceased to have effect as will any conditions imposed or transferred with the grandfather rights following the introduction of the Licensing Act 2003 unless the conditions and fire safety order are one and the same body, for example, designated sports grounds and stands where local authorities enforce the safety order. In such circumstances fire safety conditions should not be set in new licences, but conditions in existing licences will remain in force and be enforceable by the Authority.

The Authority expects a premises operating schedule to deal with how that premises will be properly managed and maintained to ensure public and staff safety at all times. The Authority does not intend to reiterate current legislation within a licence's conditions, however, any breaches of legislation designed to protect either the public or the workforce will be viewed dimly by the Authority when making a decision to grant a licence or when reviewing a licence.

The Authority recognises the benefits of employing registered door staff and stewards both in ensuring public safety and preventing crime. The Authority requires that all persons employed in a capacity similar to door supervisors and/or stewards be registered.

The Authority recognises that it can be particularly onerous to keep an exact check upon the number of persons in premises; however, where appropriate and depending upon the size of a premises, the Authority does expect the applicant, designated premises supervisor and persons holding a personal licence to demonstrate an understanding of how many persons are on the premises at a particular time. Such persons should also demonstrate knowledge of how many people it is safe to have on a premises taking into consideration floor space, seating areas and number of exits.

The Authority will also be minded to expect the applicant to have referenced the following within their operating schedule so as to satisfy them that sufficient consideration has been given to public safety:

- Electric wiring
- Staff training
- Special effects
- Fire safety measures

Responsibility for complying with the Regulatory Reform (Fire Safety) Order 2005 rests with the “responsible person”, which may be the employer, or any other person or people who may have control of the premises. Each responsible person must carry out a fire risk assessment which must focus on the safety in case of fire for all “relevant persons”. Further information and guidance regarding the Order and fire safety legislation is available from the Communities and Local Government website www.communities.gov.uk/fire.

The Authority will consider attaching conditions to licences and permissions to promote safety, and these may include conditions drawn from the Model Pool of Conditions relating to “Public Safety” and “Cinemas and Fire Safety” (see annexes E and F to the S182 Guidance).

The general principle throughout that the Authority shall have recourse to is that conditions relating to public safety can only be imposed where they are necessary in the particular circumstances of the individual premises, and should not duplicate other requirements of the law. For example, the law already provides that any person providing a service to the public must make reasonable adjustments that will enable disabled people to access them. No licensing condition should therefore be attached which conflicts or duplicates this requirement.

Reason:

Public safety is a very important consideration and is specifically stated within the four licensing objectives as being a factor to which the Authority is required to have regard. The Authority requires that every person visiting a licensed premises can do so in the knowledge that they have been constructed with safety in mind and are well managed and maintained.

(4) The prevention of crime and disorder

Local Authorities, pursuant to section 17 of the Crime and Disorder Act 1998, must have regard to the likely effect of the exercise of their functions and do all that they can to prevent crime and disorder in their area.

The Authority will have particular regard to the likely impact of licensing and related crime and disorder in the borough, particularly when considering the location, impact, operation and management of all proposed licence applications.

The Authority suggests applicants take local crime prevention strategies into account when determining their operating schedules. It will also expect the applicant to have proposed steps to prevent crime and disorder in their operating schedule. For example:

- Use of CCTV both inside and outside the premises.
- Metal detection and search facilities.
- Procedures for risk assessment of promotions and events such as happy hours.
- Measures to prevent the use or supply of illegal drugs.
- Employment of licensed door supervisors and other appropriately trained staff.

This is not an exhaustive list and applicants should consider tailoring their strategies to their premises.

The Authority encourages the use of toughened glass and plastic cups and bottles in premises serving alcohol for consumption on the premises, so as to prevent the use of these in any crime. The Authority will expect applicants to take steps to ensure that bottles and glasses are not removed from the premises.

The Authority recognises and encourages the use of CCTV in licensed premises. The Authority would seek to ensure that all CCTV is registered with the appropriate agencies, guidance documents are available from the licensing department setting out minimum standards and advising upon registration. The Authority recognises that the use of CCTV is dependant upon the size and nature of the premises.

When considering an application the Authority will consider statistics concerning crime and disorder in the locality of a premises as provided by the crime and disorder partnership. Where appropriate the Authority will also consider the possible impact of an application upon police resources within a locality.

The Authority supports the use of identification cards to ensure that sales are not made to underage persons. As well as passports and photo driving licences, cards issued under the proof of age standards scheme (PASS) and which carry the PASS hologram are particularly encouraged by the government, the Authority, Trading Standards and Lancashire Police. The Authority requires applicants to maintain a register detailing all sales that have been refused on the grounds of age and to persons considered under the influence of alcohol.

Trading standards officers in conjunction with Lancashire Constabulary will enforce the provisions of the 2003 Act relating to the sale and supply of alcohol to individuals aged under 18 years of age. This involves test purchasing measures aimed at enforcing the provisions. Where a premises is found to be in breach of these provisions and, following receipt of a relevant complaint, the matter will be referred to the licensing authority for review.

Reason:

Crime and disorder statistics demonstrate that alcohol plays a fundamental part in the commission of criminal offences within the borough:

- It is estimated that 40% of violent crimes are committed whilst under the influence of alcohol.¹
- 78% of assault and 88% of criminal damage cases are committed whilst under the influence of alcohol.²
- One quarter of all adults claim to have been the victim of alcohol related violence, 14% in a public house, 9% on the street and 7% in their homes.
- Seven out of 10 people felt that street drinking was a problem and 57% saw teenagers as the worst offenders.
- Half of those surveyed felt that alcohol related crime was still increasing.
- Glass and bottles account for 11% of all injuries sustained

Licence Reviews

At any stage following the grant of a premises licence, a responsible authority, such as the Police or Fire Authority, or an interested party such as a resident living in the vicinity of the premises, may ask the licensing authority to review the licence. This must be due to a matter arising at the premises in connection with any of the four licensing objectives. In addition, a review of the licence will follow any action by the police to close down the premises for up to 24 hours.

In every case the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

Where the request originates with either a responsible authority or an interested party the Authority may reject any ground for review if such ground is not relevant to one or more of the licensing objectives. Where the request originates from an interested party only the Authority may reject any grounds for review if the Authority considers such ground to be frivolous, vexatious and repetitious.

Following receipt of a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the Licensing Act 2003, the Authority shall arrange a hearing. The arrangements for the hearing shall follow the provisions to be set out by the Secretary of State in the regulations still to be published.

¹ Statistics taken from Crime and Disorder Audit Report 2003

² Statistics taken from Crime and Disorder Audit Report 2003

Summary Reviews

Section 21 of the Violent Crime Reduction Act 2006 has amended the Licensing Act 2003 to make provision for the Police to instigate a summary review of a premises licence in serious cases of crime and disorder. The 2006 Act requires that the premises must be licensed for the sale of alcohol and that a senior member of the Police force (ie of or above the rank of Superintendent) must give a certificate stating that it is his opinion that the premises are associated with serious crime or serious disorder or both.

On receipt of an application from the Police for a summary review of the premises licence the Authority must:

- I. within 48 hours of the time of receipt, consider whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
- II. i within 28 days after the day of its receipt , review that licence.

In calculating the 48 hours any time that is not on a working day is to be disregarded. The Authority must give notice to the Premises Licence Holder and each Responsible Authority. Notices must be displayed at the premises for 7 consecutive days starting with the day after the licensing authority received the application.

The Interim Steps Pending Review

The interim steps that the Authority must consider taking are as follows:

- a) The modification of the conditions of the premises licence, ie the alteration, omission or addition of or to the conditions;
- b) The exclusion of the sale of alcohol by retail from the scope of the licence;
- c) The removal of the Designated Premises Supervisor
- d) The suspension of the licence.

Where the Authority takes one or more of the steps above that decision takes effect immediately or as soon after as the Authority directs. Notice must be given immediately to the Premise Licence Holder and Chief Officer of Police.

The Premises Licence Holder may make representations about the interim steps and should this occur a hearing must be held within 48 hours of receipt to consider those representations. Once again the 48 hours are determined by working days only.

Advance notice of the hearing must be given to the Premises Licence Holder and Chief Officer of Police.

At the hearing the Authority must have regard to the certificate from the Police that accompanied the application, any representations by the Police and the representations of the Premises Licence Holder.

The subsequent full review hearing is to be conducted in accordance with the Review provisions specified in Section 51 of the Licensing Act 2003, ie no later than 28 days after the receipt of the certificate from the Police.

Drugs

The Authority will have regard to current drug action team policies when determining licences.

The Authority will have regard to safer clubbing guidance published by the government.

The Authority encourages the inclusion of measures intended to address drug problems within the operating schedule. The Authority recognises that there is an expectation upon licensees to address drug and alcohol problems linked to their premises.

Reason:

Prevention of crime is both an objective of the Licensing Act 2003 and a paramount consideration for the Authority pursuant to the Crime and Disorder Act 1998.

Alcohol harm reduction strategy (AHRS)

This licensing authority has familiarised itself with the relevant government's alcohol harm reduction strategy and Blackburn with Darwen Community Safety Partnership's alcohol harm reduction Strategy and action plan. In England that is Safe. Sensible. Social. This licensing authority will ensure that their licensing policy complements the relevant strategy, and subsequent measures, where these may help to promote one or more of the licensing objectives.

Violent Crime Reduction Act (VCRA) 2006

The Violent Crime Reduction Act 2006 received Royal Assent on November 8, 2006. The Act introduces new measures to ensure that police and local communities have the powers they need to tackle guns, knives, and alcohol-related violence. Relevant measures include:

An amendment to the Licensing Act to introduce a new offence of persistently selling alcohol to children. The offence will be committed if, on three or more different occasions in a period of three consecutive months, alcohol is unlawfully sold to a minor on the same premises.

The designation of an area as an alcohol disorder zone (ADZ) empowers local authorities to charge licensees for additional enforcement activity affecting all licensed premises within the zone. These new powers for local authorities and the police to designate ADZs will be used by this authority as a last resort to tackle alcohol related crime and disorder.

An amendment to the Licensing Act which will enable licensing authorities, on the application of a senior police officer in cases of serious crime and disorder, to attach interim conditions to licenses pending a full review.

Policing and Crime Act 2009

Schedule 4 Policing and Crime Act 2009 amended the Licensing Act 2003 to give the Secretary of State power to impose up to nine mandatory licensing conditions in relation to the sale and supply of alcohol under licence.

What does the Policing and Crime Act Do?

The Policing and Crime Act 2009 clarifies how police forces and local authorities can work together by placing an explicit duty on police authorities to reflect their community's priorities in their work. The 2009 Act introduced a number of measures which are relevant, or made changes, to the Licensing Act 2003, including:

- A mandatory code of practice for alcohol retailers;
- Elected members of licensing authorities included as interested parties;
- Reclassification of lap dancing clubs so they require a sex establishment licence

The Health Act 2006 – workplace smoking ban

The ban on smoking in all enclosed workplaces and public spaces came into force on 1 July 2007. The ban includes smoking in pubs, restaurants and members' clubs where bar or other staff are employed. In this context 'enclosed' means anywhere with more than 50% of wall and ceiling space infilled.

The Clean Neighbourhoods and Environment Act 2005

This provides local authorities with an additional power to issue a fixed penalty notice to any licensed premises emitting noise that exceeds the permitted level between the hours of 11pm and 7am.

The Anti-Social Behaviour Act 2003

Licensing authorities are aware of new powers that are available to them under Sections 40 and 41 of the Anti-Social Behaviour Act 2003. The Act provides that if the noise from any licensed premises is causing a public nuisance, an authorised environmental health officer has the power to issue a closure order effective for up to 24 hours. Under this provision, it is for the Chief Executive of the local authority to delegate their power to environmental health officers within their authority. If after receiving a closure order the premises remain open, the person responsible may upon summary conviction receive a fine of up to £20,000 or imprisonment for a term not exceeding three months, or both. This complements the police powers under Part 8 of the Licensing Act 2003 to close licensed premises for temporary periods.

LACORS Practical Guide to Test Purchasing

Licensing authorities are familiar with the LACORS Practical Guide to Test Purchasing insofar as it relates to the test purchasing of alcohol by trading standards officers.

Types of licences

Personal licences

The Authority recognises that it has very little discretion regarding the granting of these licences. In general provided that an applicant has a qualification determined by the Department for Culture Media and Sport (DCMS) and does not have certain criminal convictions the application must be granted. If an applicant has a relevant conviction the police can oppose the application. If an objection is lodged by the police, a hearing of the Authority's licensing sub-committee panel will be held.

At any hearing to determine the grant of a personal licence the Authority will have regard to the crime prevention objective. The Authority will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Authority will only grant an application where it is satisfied that it will not hinder the crime prevention objective.

Where the police object to the granting of a personal licence there will be a presumption against the granting of that licence unless it can be demonstrated to the licensing sub-committee that there are exceptional circumstances to justify granting the same.

Reason:

Prevention of crime is both an objective of the Licensing Act 2003 and an important factor for the Authority pursuant to the Crime and Disorder Act 1998. The Authority must be satisfied that an individual holding a personal licence is not only a properly qualified person but also a person who will assist in the fight against crime. Granting a licence to a known criminal will in many cases undermine rather than promote the crime prevention objective.

Premises licences and club premises certificates

Operating schedules/plans

The Authority requires individual applicants to address the four licensing objectives in their operating schedule (as required by the Act). Further to the indications of this policy document the Authority will expect the operating schedule to have regard to the following factors:

- (a) The area where the premises are situated.
- (b) The type of premises.
- (c) The licensable activities to be provided.
- (d) Operational procedures.
- (e) The needs of the local community.

Any person aged 18 years or over who is carrying on or who proposes to carry on a business that involves the use of premises for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period. "A person" in this context includes a business or partnership. Where the premises are, for example, a managed public house the Authority will expect the applicant

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for a premises licence to be the pub operating company, as the manager (as an employee) would not be able to do so. The same applies to premises such as cinema chains and fast food restaurant chains where the managers, will, similarly, be employees of the operating company.

However, in respect of most leased public houses, a tenant may run or propose to run the business at the premises in agreement with the pub operating company. In such a case it will not be a matter for the Authority to decide who should apply for the premises licence but a matter for the tenant and the operating company to agree contractually.

Applications for premises licences must include:

- a) The required fee;
- b) Operating Schedule;
- c) Scaled Plan of premises;
- d) If the application involves the supply of alcohol, a form of consent from the Designated Premises Supervisor.

The Authority would also request that a copy of the notice to be displayed on the premises together with a copy of the local newspaper notice. This should be done before the expiry of the 28 day period for representations to be received. Failure to do so may be raised if the matter proceeds before the licensing committee.

The Operating Schedule must include:

- a) The licensable activities to be conducted on the premises;
- b) The times during which it is proposed that the licensable activities are to take place;
- c) Any other times when the premises are to be open to the public;
- d) Where the licence is required only for a limited period, that period must be specified;
- e) Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor;
- f) Where the licensable activities include the supply of alcohol whether the alcohol will be supplied for consumption on or off the premises or both;
- g) The steps which the applicant proposes to take to promote the Licensing Objectives.

All applicants are encouraged to liaise fully with all responsible authorities BEFORE completing their operating schedule and submitting their applications to the Local Authority.

All applicants are requested to send notification of any applications to the Public Protection Service, L Floor, Tower Block, Town Hall, Blackburn BB1 7DY.

All applicants who intend to be involved with the sale of alcohol are encouraged to join and actively participate in such schemes as Pub Watch/Off Watch/Best Bar None (wherever applicable).

Temporary event notices

If an applicant wishes to use a premises for one or more licensable activities for a period not exceeding 96 hours they must serve upon the Authority and the police a temporary event notice **at least 10 working days** before the event. The day of submission of the application to the Authority and the day of the event are **not included in the 10 working days**. The Authority encourages notice to be given at least 21 days prior to the temporary event but not longer than 28 days before the event so that proper consideration, advice and guidance can be given in respect of every temporary event. This is not stipulated by legislation and is only an expectation of the Authority.

Temporary event notices are subject to various conditions and limitations, these concern:

- Duration – they are limited to events lasting up to 96 hours.
- Scale – they cannot involve the presence of more than 499 people at any one time.
- Use of the same premises – the same premises cannot be used on more than 12 occasions in any calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by one individual within a given period of time – a personal licence holder is limited to 50 notices in one year and any other person to five notices in the same period.

Police should be served with the application at the same time as the Authority at the Police Licensing Unit, Town Centre Police Station, Railway Road, Blackburn.

Club premises certificates

These clubs are organisations where members have joined together for particular social, sporting or political purposes and then combined to purchase alcohol in bulk as members of the organisation for the supply in that context.

The 2003 Act requires a club to “qualify” to be outside of the normal premises licence arrangements. The grant of a club premises certificate means that a qualifying club is entitled to certain benefits:

- The authority to supply alcohol to members and to sell it to guests in the premises to which the certificate relates without the need for any member or employee to hold a personal licence.
- The absence of a requirement to specify a designated premises supervisor.
- More limited rights of entry for the police and authorised persons because the premises are considered private and not generally open to the public.
- The club premises are not subject to police powers of instant closure on grounds of disorder or public nuisance because they operate under their codes of discipline and rules which are rigorously enforced; and
- Not being subject to potential orders of the Magistrates’ Court for the closure of all licensed premises within an area when disorder is happening or expected.

Representations in respect of Premises Licences

Both 'interested parties' and 'responsible authorities' are entitled to make representations to the licensing authority on applications for the grant, variation or review of premises licences (see Appendix 4 for definitions).

The Authority will only take into account representations which are relevant. A representation would only be relevant if it relates to the likely effect on the grant of the licence on the promotion of at least one of the licensing objectives.

The Authority will not take into account any representations from an interested party which are frivolous or vexatious. It is for the Authority to determine on its merits whether any representation by an interested party is frivolous or vexatious. The interested party making representations may not consider the matter to be frivolous or vexatious but the test is whether the licensing authority is of the opinion they are frivolous or vexatious.

Since the introduction of the Policing and Crime Act 2009 the definition of "interested parties" has been extended to include "a member of the relevant licensing authority", ie elected councillors or the licensing authority for the area in which a premises is situated.

Variations to Premises Licences

The Licensing Act 2003 sets out the situations where an application can be made to vary the details on the Premises Licence including changing the name of the Designated Premises Supervisor.

Since the Authority's Licensing Policy was last reviewed, the Licensing Act 2003 has been amended by the insertion of Sections 41A to 41C relating to minor variations. These sections commenced on 29th July 2009. Minor Variations will not impact adversely on the four licensing objectives and are now subject to a simplified process.

Under this process the applicant is not required to advertise the variation in a newspaper or copy it to the responsible authorities. However they must display it on a WHITE notice (rather than the BLUE notice required for full variations or applications for new premises licences) and must be displayed for a shorter period of 10 days starting on the day after the minor variation application was given to the licensing authority. Full details on how to make an application for a variation whether under the minor variations procedure or the full variation procedure can be found in the Licensing Act 2003 and Section 182 Guidance.

In accordance with the Government recommendation the decisions on minor variations will be delegated to licensing officers. Applicants are advised to contact the Public Protection Service – Licensing prior to submitting applications in order that advice can be sought on whether an application can be dealt with under the minor variations procedure or not.

Minor Variations

The Section 182 Guidance suggests that minor variations will generally fall into four categories: minor changes to the structure or layout of a premises; small adjustments to licensing hours; the removal of out of date, irrelevant or

unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by

- Increasing the capacity for drinking on the premises;
- Affecting access between the public part of the premises and the rest of the premises or the street or public way, eg block emergency exits or routes to emergency exits;
- Impeding the effective operation of a noise reduction measure such as acoustic lobby.

The Authority would also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives. This emphasises the importance of having an up to date copy of the premises plan available.

An application to remove a licensable activity should normally be approved as a minor variation.

Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases. Applications to vary the hours in relation to the sale of alcohol by increasing them are also exempt from the minor variation process. However, applications to reduce or move the hours without increasing them will normally be processed as minor variations.

The Act covers a wide range of other licensable activities and each application will be considered on a case by case basis and in light of any licence conditions put forward by the applicant.

When considering applications to add licensable activities, it is likely that the following factors will be considered:

- The nature of the licensable activity;
- Proximity of the premises to residential areas;
- Any licence conditions volunteered by the applicant to mitigate the impact of the activity;
- Whether alcohol is sold at the premises when the licensable activity is taking place; and whether it will continue to be sold during the extended period. For example, a pub that applies to stay open an extra hour after the sale of alcohol has ended to sell hot drink and food could be considered to benefit the promotion of the licensing objectives;
- Track record of the premises – whether positive or negative. For example, any complaints or enforcement action related to the licensing objectives, or conversely any evidence of good practice in carrying on the licensable activity, eg under temporary event notices;

- Proximity and density of public houses, nightclubs , etc. If customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.
- The extent of additional hours sought and whether it will involve later opening or opening between 23:00 hours and 07:00 hours.
- Arrangements for dispersal, ie when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?
- Whether the proposed extension applies only on the weekend or also during week days;
- Whether there will be new admittances during that period;
- Track record of the establishment whether positive or negative, eg complaints related to the licensing objectives, any enforcement action or conversely any evidence of good practice in carrying on the licensable activity, eg under temporary event notices.

Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing authority considers the proposed variation would impact adversely on the licensing objectives, unless conditions are imposed it will be refused.

Applicants may volunteer conditions as part of the minor application process. These conditions may arise from their own risk assessment of the variation or from informal discussions with responsible authorities or the licensing authority.

Licence or club certificate conditions will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives. In most cases, therefore, any application to remove or change the wording of a condition should be treated as a full variation. There may be some changes where the minor variation process is appropriate such as where the condition no longer applies or where changes in legislation invalidate a condition. It is also possible that the condition may need to be revised because it is unclear and/or unenforceable.

Provisional Statements

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

An application for a provisional statement must be accompanied by a schedule setting out those details required by Section 29 of the Act on the prescribed form.

Applications for provisional statements will be dealt with in a similar manner as applications for premises licences. Hearing will be held if relevant representations are made.

Interim Authority

Generally, a Premises Licence will remain in force for as long as the premises licence holder continues to operate the business, unless it is specified it has effect for a limited period and that period expires or the licence is revoked.

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

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

- The person is the personal representative in the event of the holders 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;

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' objective. The Authority will then hold a hearing to consider the objection.

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

Miscellaneous considerations

Administration, exercise and delegations of function

The Authority recognises that in order to enable it to discharge its functions under the Act a schedule of delegation is required. Appendix 1 details the delegation of powers adopted by the Authority.

The Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

With many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to licensing authority officers. All such matters dealt with by officers will be reported for information only to the next Licensing Committee meeting.

This form of delegations is without prejudice to officers referring an application to the Licensing Committee, if it is considered appropriate in the circumstances of any particular case.

Decisions in respect of individual applications will be made by a properly appointed licensing sub committee.

Appeals about decisions by the Authority

An appeal must be started by giving notice of an appeal by the appellant to the justices' chief executive for the magistrates court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision to be appealed against.

In hearing an appeal, the magistrates court will have regard to the licensing authority's statement of licensing policy and guidance issued by the DCMS.

Enforcement

The Authority will establish protocols with the police on enforcement issues designed to ensure the efficient deployment of local authority enforcement staff and to avoid duplication when carrying out inspections and enforcing licensing laws. The protocols should provide for the targeting of agreed problem and high-risk premises that require greater attention.

Information relating to the licensing authorities' enforcement policy would be risk assessment based rather than on the basis of annual inspection.

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 2003 Act and the licensing authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this.

The Authority have appointed specific enforcement officers. Notification of all applications will be given to the enforcement officers in order that relevant checks can be made.

The enforcement officers will also be heavily involved in ensuring compliance with the legislation and regulations. Monitoring of licensed premises will be undertaken to ensure compliance which include test purchasing schemes and surveillance operations. Officers work closely with the Police, Trading Standards and other organisations and in addition help to implement any initiatives supported by the Government.

The Authority work closely with the appropriate agencies to establish protocols to ensure an efficient deployment of police/fire and rescue and licensing authority officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high risk premises.

Enforcement activities will be undertaken in accordance with the Council's enforcement and prosecution policies.

Contact details

Applicants can obtain further information in relation to applications under the Act by contacting the licensing service (details below.) Members of the public can also obtain advice about whether or not activities fall to be licensed by contacting the licensing officers. Application forms can be obtained from the town hall or from the Council's website at: www.blackburn.gov.uk

Address: Public Protection Service - Licensing
 Blackburn with Darwen Borough Council
 L Floor
 Tower Block
 Town Hall
 Blackburn
 BB1 7DY

Telephone number (01254) 222503/4

Fax (01254) 585857

E-mail publicprotection@blackburn.gov.uk