

Alcohol Licensing

Introduction to the Licensing Act 2003
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Legislation

- Licensing Act 2003 (LA03)
 - Created Licensing Authorities
 - Licensing Objectives
 - Licensable Activities
 - Designated Responsible Authorities
- 62 separate Statutory Instruments

and counting !



Licensing Objectives

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

Licensable Activities

- **Sale or supply of alcohol**
- **Provision of regulated entertainment**
 - Live music
 - Recorded music
 - Performances of plays or dance
 - Films
 - Indoor Sports
 - Boxing/wrestling including mixed martial arts
- **Provision of late night refreshment**
 - hot food or drink 11pm – 5am



Responsible Authorities

- Licensing
- Lancashire Police
- Lancashire Fire and Rescue Authority
- Environmental Health
- Health & Safety (Either EH or HSE)
- Planning
- Trading Standards
- Child Protection Unit
- Public Health
- Home Office Immigration Enforcement.



Licensing Policy

- [Blackburn with Darwen Licensing Policy 2020 - 2025](#)
- Required under s.5 of LA03 and must be reviewed at least every 5 years
- [Statutory Guidance](#) issued under s.182 of LA03 [Current version issued April 2018.]
- [Licensing Act 2003 – LGA Councillor’s handbook](#)



Power to grant applications

- Uncontested applications are granted under delegated authority by officers
- Contested applications are determined by the LASC.
- All review applications are determined by the LASC



Premises Licences

- Issued for an specific location, building,
- Do not expire (unless a time-limited application)
- Authorise 1 or more licensable activities
- Require a DPS if alcohol sales are involved
- Subject to annual fees



Club Premises Certificates

- Can only be granted to Qualifying Clubs
 - established and conducted in good faith as a Club with a minimum of 25 members.
- Do not expire
- Authorise 1 or more licensable activities provided for members of the club – not public
- Do not require a DPS
- Subject to annual fees



Temporary Event Notices (TENs)

- Over 18 (Pers licence holders x 50 everyone else x 5)
- Premises specified by notice giver
- No more than 499 present
- Subject to prescribed limits
- Standard TEN given at least 10 days before date of event
- Late TEN between 5 and 9 days before event



Personal Licences

- No longer expire
- Individual aged over 18 with right to live and work in UK who meet the criteria
- Only a Personal Licence Holder can undertake the role of Designated Premises Supervisor
- S.182 guidance indicates they should normally be the person who has been given day to day responsibility for running the premises by the premises licence holder.



Types of Application

- New premises licence (all)
- Variation of existing licence or CPC (all)
- Review of existing licence or CPC (all)
- Transfer of existing premises licence (Pol)
- Change of Designated Premises Supervisor (Pol)
- Temporary Event Notices (Pol + EH)
- New Personal Licences (Pol relevant convictions)



Report Format

- Factual and unbiased
- Summary of the application and where appropriate, details of existing permissions
- Summary of representations
- Appendices will include copy of application, current licence (if there is one) copies of all representations or responses received, extracts from BwD Policy, extracts from S.182 Guidance



Before the Hearing

- 5 P's
- Read the report bundle carefully
- Identify what other information you need to make an informed decision
- Prepare relevant questions
- Seek advice/clarification from LO or legal
- Visit site (optional)



The Hearing

- Licensing Act 2003 (Hearings) Regulations 2005 set out prescribed timescales for determining applications, notification requirements
- The actual hearing is conducted in accordance with BwD's procedures and led by the Chair
- Rules of natural justice apply
- Is not adversarial and should not feature traditional cross examination



Relevant Considerations

- Relevant statutory provisions
- Statutory guidance
- Council's Policy
- The licensing objectives
- Representations about the likely impact of licensable activities
- The individual merits of each case
- The public interest



Irrelevant Considerations

- Market Demand
- Competition
- Parking issues
- Lack of Planning consent
- Objections that are vexatious or frivolous



The Decision

- Each application must be treated on its own merits
- There is no burden of proof on either side
- Wednesbury principle of reasonableness
- Must be evidence based and appropriate for the promotion of the licensing objectives
- A good decision is one that is reasonable in the circumstances, based wholly on the evidence before you and properly reasoned



Options

- Grant the application as submitted
- Grant application but :-
 - Add conditions that you consider are **appropriate** for the promotion of the licensing objectives,
 - Exclude licensable activities from the Licence;
 - Approve different parts of premises for different activities
- Refuse the application



Premises Licence Review

- Anyone can apply for a review of a Premises licence – No fee
- The Licensing Authority can reject review applications from other persons if:-
 - It does not relate to a Licensing Objective
 - It is considered to be frivolous, vexatious or repetitious



Review - outcomes

- Authority can take action **appropriate** to meet licensing objectives -
 - Modify conditions
 - Disapply Section 177A
 - Exclude a licensable activity
 - Remove Designated Supervisor
 - Suspend Licence (max. 3 months)
 - Revoke, or
 - Do nothing

Any action taken must be based on evidence



Summary Reviews

- Where the Police are satisfied that a premises authorised to sell alcohol is associated with serious crime and/or serious disorder they can apply for a summary review
- The LA has 48 hours to consider the application and decide if interim steps are appropriate pending the full hearing within 28 days.
- Interim steps are effective immediately and can include suspension of licence, removal of DPS or extra conditions



Appeals

- Any party to an application who is aggrieved by the LA's decision has the right of appeal
- A decision to revoke or suspend a licence following a standard review is stayed until the end of the appeal period, or the conclusion of any appeal
- Appeal lodged by way of complaint to the Magistrates Court within 21 days of receiving the decision notice.
- Unlike taxi cases no further right of appeal to the Crown Court



Cumulative impact areas

- Cumulative impact areas (CIAs) are identified by LAs **where there is evidence** that the number, type or density of licensed premises are giving rise to specific problems that could undermine the licensing objectives
- Create a presumption of refusal
- Must be kept under review and removed where evidence indicates no longer necessary
- None in the Borough



Thank You



Any
Questions?

