



# REPORT TO EXECUTIVE

## PORTFOLIO AREA: INFRASTRUCTURE & ENVIRONMENT TRANSPORT

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**Date of Meeting:** 19<sup>th</sup> November 2007

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**Public**

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**Key Decision:** No

**Recorded in Forward Plan:**

**No**

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**Inside Policy Framework**

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**Title:** REVIEW OF STATEMENT OF LICENSING POLICY  
LICENSING ACT 2003

**Report of:** Director of Legal & Democratic Services

**Report reference:** LDS 98/07

### Summary:

The Licensing Act 2003 received Royal Assent in July 2003 and became law progressively between 2004 and 24<sup>th</sup> November 2005 when the main part of the Act was implemented. One of the duties of the Local Authority is for each three year period, to consult and publish a statement of its Licensing Policy. The first statement for this Council was published on 7<sup>th</sup> January 2005, therefore the three yearly review must be published by 7<sup>th</sup> January 2008. All Members were invited to take part in the consultation for this review, which took place between 22<sup>nd</sup> August and 26<sup>th</sup> October 2007.

A Working Group of the Licensing Committee has considered the representations and will submit their recommendations to the Licensing Committee on 5<sup>th</sup> December 2007 for consideration, with a view to adoption by the City Council on 17<sup>th</sup> December 2007.

### Recommendations:

The Executive is requested to note the review of the Statement of Licensing Policy and refer any comments to the Licensing Committee.

**Contact Officer:** Jim Messenger  
Licensing Manager  
Mark Lambert  
Head of Legal Services

**Ext.** 7025

7019

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:- Licensing Act 2003, Guidance issued under the Act and responses to consultation

## **To the Members of the Executive on 19<sup>th</sup> November 2007**

### **Background**

1. The Licensing Act 2003 received Royal Assent in July 2003 and became law progressively between 2004 and 24<sup>th</sup> November 2005
2. One of the major requirements for local authorities was to consult and formulate its "Statement of Licensing Policy".
3. Paragraph 5 of the Act reads:

#### Statement of Licensing Policy

Each licensing authority must in respect of each three year period

- a) determine its policy with respect to the exercise of its licensing functions and;
- b) publish a statement of that policy (a licensing statement) before the beginning of the period.

In this section "three year period" means:

- a) the period of three years beginning with such day as the Secretary of State may by order appoint, and
- b) each subsequent period of three years.

Before determining its policy for a three year period, the licensing authority must consult with:

- a) the chief officer of police for the licensing authority's area
- b) the fire authority for that area
- c) such persons as the licensing authority considers to be representative of:
  - i) holders of premises licences issued by that authority
  - ii) holders of club premises certificates issued by that authority
  - iii) holders of personal licences issued by that authority
  - iv) such other persons as the licensing authority considers to be representative of businesses and residents in its area

During each three year period, a licensing authority must keep its policy under review and make such revisions to it, at such times, as it considers appropriate.

4. During the original consultation in 2004, a county based officer working group was formed to discuss the possibility of a common policy. Whilst it was appreciated that each authority is autonomous, there would be clear advantages if the greater part of the policy was consistent throughout the county. All six authorities adopted the final draft of the policy with only minor differences to recognise local circumstances.

### **Current Review**

5. On 12<sup>th</sup> September 2007, the Licensing Committee formed a Working Group to consider the review of the Licensing Policy and any responses to the consultation. This Working Group will submit its recommendations to a special Licensing Committee

on 5<sup>th</sup> December 2007 for consideration, with a view to adoption by the City Council on 17<sup>th</sup> December 2007.

6. On 16<sup>th</sup> July 2007 the first meeting of the county officer working group met to discuss the consultation process. It was agreed that consultation would take place between 22<sup>nd</sup> August and 26<sup>th</sup> October 2007.
7. Information from the Department of Culture Media and Sport is that although this is a review of a council's policy, they are not expecting great changes unless the policy has been legally challenged or found to be lacking in some respect. Our policy has not been challenged and has been praised by both members of the trade and the public. On numerous occasions the policy has been quoted in Licensing Sub-Committee hearings by both sides to the application. In view of this, the officer working group made a number of minor changes where the policy was incorrect due to the passage of time, or to clear up ambiguities.
8. Consultation took place between 22<sup>nd</sup> August to 26<sup>th</sup> October 2007 with the statutory organisations and many other organisations or individuals where it was thought that they may assist in the process. A full consultee list is included in version 2 of the draft licensing policy (**Appendix 2**)
9. Approximately 450 letters were sent to current licence holders, outlining the details of the consultation and inviting anyone interested to obtain a copy via the Council web site, by emailing or telephoning. Copies were also available at the Civic Centre Reception and all libraries.
10. All Members of the City Council and Directors have also been sent the consultation information. The Chairman of the Licensing Committee issued a press release to the local newspaper, which received good publicity.

### **Result of Consultation**

11. A meeting of county Licensing Managers was held on 1<sup>st</sup> November when responses from the whole county were considered. A schedule of the responses, comments and recommendations are attached (**Appendix 1**)
12. Version 2 of the draft licensing policy which incorporates the recommendations following consultation is attached (**Appendix 2**)

### **Recommendation**

13. The Executive is requested to note the review of the Statement of Licensing Policy and refer any comments to the Licensing Committee.

Prepared by J A Messenger  
Licensing Manager

## Schedule of Responses to Licensing Policy Review 2007 – All six Authorities

(n.b. In all cases where 'Para.' is mentioned, this refers to the draft licensing policy)

L.A.	Respondent	Para.	Comments	Appraisal	Recommendation
K	Kendal & South Lakeland Licensed Victuallers' Association	Foreword	Delete reference to transitional period.	Accept.	Delete sentence in opening paragraph.
K	As above	Foreword	Text implies that this is original policy, not the revised one.	Accept.	The whole foreword section to be updated prior to revised draft policy being finalised.
K	As above	1.7	As above	Accept.	Insert "and revise its policy every 3 years"
K	As above	1.8	Appendix 4 still blank	Accept	Appendix to be completed to include the list of consultees prior to revised draft policy being finalised.
CI	C/I Pannone, Cumbria Constabulary	1.10	Include 'The Crime and Disorder Act 1998 including those sections as amended by The Police and Justice Act 2006'.	Agreed	Include "The Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006"
A	Cumbria Fire & Rescue Authority	1.10	Delete: The Fire Precautions Act 1971 (repealed); and Fire Precautions (Workplace) Regulations 1997 (as amended) 1999 (repealed) Insert: The Regulatory Reform (Fire Safety) Order 2005 (not correctly printed in draft policy)	Changes in legislation	Approve change and wording as comments
A	Planning &	1.13	Make a clearer statement between	States in	Delete from "For example ....to

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	Development Service		licensing control and planning control. Paras 13.64 to 13.68 of guidance then quoted	guidance that policy should indicate that planning, BC and licensing regimes be properly separated. Sentence implies we would fetter our discretion.	...conflicting decisions”.
B	Barrow Planning Department	Page 6 Para 1.14 (1.13 in some)	First sentence should go beyond avoiding duplication and should actively advocate achieving consistency with other regulatory regimes, notably those for which the authority has direct responsibility such as planning.	DCMS Guidance para. 13.65 states that licensing & planning are different & neither are bound by the decision of the other.	No change
Cp	CALC Copeland District	1.15	a) Want 'required' to replace 'encouraged' b) Want Town and PCs to be on list of RAs c) Want 'required' again	a) Applicants cannot be required b) Town and PCs are not RAs c) Cannot be required	a) No change b) No change c) No change
Cp	Business Against Crime Whitehaven	2.1	Only a comment		No change

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	Partnership				
B	Barrow Planning Department	Page 8 Para 2.3 Line 5	After “document” should be inserted “or of any other policy document of the Authority”	The licensing policy is the only document that refers to licensing functions. The comment is too wide as licensing comms. Are not obliged to consider all council policies.	No change
A	Env Health Unit	2.5	Some reference to festivals may be useful to explain Allerdale’s approach to them	This is already covered by encouraging “cultural activities .... Innovative forms of public entertainment “	No change
CI K Cp A	British Beer & Pub Association	2.7	There is no mechanism in the Licensing Act for licensing authorities to insist that the DPS be on the premises at all times. The DCMS guidance also outlines good practice for the authorisation of the sale of alcohol. Written authorisation may be appropriate for some premises, but not all, and	Policy does not state that they <u>must</u> be on the premises, however some further guidance would not go	At start add “However, the Authority ..... Amend last sentence to add “ It is considered good practice that any such.....” Add to end of 2.7 “Where any person who does not hold a personal licence is authorised to sell alcohol, the

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			is not a legal requirement. Ultimately, it is for the DPS to decide how to manage this issue.	amiss.	Designated Premises Supervisor is encouraged to provide, or ensure that, the person has some training on the requirements of the Act and any conditions attached to the licence. It is recommended that a record of such training is maintained".
K	Kendal & South Lakeland Licensed Victuallers' Association.	4.1.4	"he" should perhaps be "he/she"	Accept	Add at 1.19 as bullet point: "Words denoting any gender shall include all genders, words in the singular shall include the plural and vice versa, and words denoting persons shall include firms and corporations".
A	Env Health Unit	4.1.6	Delete "Environmental Protection Department" and "Health and Safety Department" and replace with "Environmental Health Unit"	Agree	Each LA to determine
A	Planning & Development Service	4.1.6	Delete "Planning Department" and replace with "Planning & Development Service"	Agree	Each LA to determine
Cp	CALC Copeland District	4.1.6	RAs to include Town and Parish Council's	Town and PCs are not Responsible Authorities under the Act. Applicants have to advertise on site and in newspaper and Town and	No change

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				PCs can make representations as an interested party but not as a RA	
A	Env Health Unit	4.2.5	Add sporting events	Agree	Amend first line after provision to "of culture, arts and indoor sporting events, including music..."
Cp	Business Against Crime Whitehaven Partnership	4.3.1 4.3.2	Request to have participation in pubwatch or other relevant schemes included	This appears in 4.3.2	No change
K A CI Cp	British Beer & Pub Association	4.3.2	As a major supporter of National Pubwatch we are very keen that public houses participate in their local pubwatches, be we are opposed to such participation being a condition of the licence. Pubwatches are voluntary organisations and membership must remain voluntary if they are to be effective. They are also co-operative bodies that must be able to determine their own membership, which would become almost impossible if leaving a pubwatch would result in a breach of condition. We trust that the final policy merely seeks to encourage	The policy states that applicants are expected to 'consider practical steps in their operating sched" this includes Pubwatch & BBN. Also says 'in the event of representations being received'	No change



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			pubwatch membership rather than make it a condition of licences. The same can be said be Best Bar None.		
K A Cl Cp	British Beer & Pub Association	4.4.7	The association is very much in favour of the use of risk assessments, but the provision of a risk assessment to support an application is not a requirement under the Licensing Act 2003, therefore the licence authority has no powers to demand to be shown a full risk assessment (paragraph 4.4.7). This may or may not be a requirement by other agencies under separate legislation but it has no place within your Licensing Policy. Adjacent paragraphs 4.4.6./8/9 similarly duplicate other legislation.	Agreed para. needs looked at.	4.4.5 Add after The Authority “considers it best practice for all applicants to assess..... 4.4.6 Delete from ‘The Authority’ to ‘inspected’ and replace with “Any assessment should be carried out ....” 3 <sup>rd</sup> line replace ‘will’ with “may” 4.4.7 Delete from ‘The Authority’ to 8 <sup>th</sup> line ‘relevant authority’ and replace with “The fire risk assessment completed in relation to the use of the premises, should assist applicants in satisfying the Fire and Rescue Authority that the Public Safety objective will be met. Each premise swill be audited by the local fire protection team as dictated by that team’s own risk based audit programme”. Final sentence of original para., after ‘secure compliance’ amend to “with the requirements of the Fire and Rescue Authority”.
A	Cumbria Fire & Rescue Authority	4.4.7 Fire Safety	The fire risk assessment should not be submitted to the fire authority. All the fire authority	Agreed amendments to be made as	See above

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			<p>requires is that there is a suitable and sufficient fire risk assessment provided as per Article 9 of the RRFSO. Each premises will be audited by the local fire protection team as dictated by their own risk based audit programme</p> <p>Further to this it should be acknowledged that the licensing authority is not able to impose conditions relating to fire safety. If the licensing authority have issues relating to fire safety then they should contact the fire and rescue authority who will treat the enquiry as a complaint and instigate an immediate audit of the premises and carry out enforcement action accordingly.</p>	above	No change but noted.
A	Scrutiny committee	4.4.10	Should an authority take responsibility for imposing occupancy limits. Not happy that falls to licensee to dictate	We have no authority to require occupancy limits. This should come from their risk assessment required by fire and H&S	No change
CI	Carlisle Police	4.4.12	Expand the para regarding use of polycarbonate glasses to reduce glass related assaults.	See BBPA comment	<p>Replace para.</p> <p>“Where:</p> <ul style="list-style-type: none"> <li>• there is evidence of a</li> </ul>

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					<p>current or past problem in relation to particular premises or a particular locality, or</p> <ul style="list-style-type: none"> <li>• in all the circumstances it is considered likely that such a problem might occur, and/or</li> <li>• premises are to be used primarily for the sale/supply and consumption of alcohol (particularly if those premises have little seating for patrons relative to their size/capacity),</li> </ul> <p>applicants should give consideration to a policy as to the use of plastic, polycarbonate or toughened glass, and a policy not to pass glass bottles over the bar, either throughout the period of operation or at certain times or on certain occasions, and should include such policies in their operating schedule. If relevant representations are made and the Authority considers it to be necessary, it may impose conditions to secure this.</p> <p>The Government believes that a risk-based, rather than blanket,</p>
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					<p>approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass related injuries</p> <p>Reason</p> <p>The Authority expects premises that are open to customers to meet the highest standards of the relevant organisations in order to best secure the safety of staff and customers. This is also one of the licensing objectives. The Authority believes that customers should feel confident that when they enter premises they will be safe”.</p>
CI A Cp K	British Beer & Pub Association	4.4.12	<p>It would be helpful if paragraph 4.4.12 could include a reference to the following approach outlined in the National Alcohol Strategy on alternatives to glass, namely a risk based, per premises approach.</p> <p>“The Government believes that a risk based , rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass related injuries”.</p>	No problem with including this.	<p>Include at end of new 4.4.12 “The Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass related injuries”</p>

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			The BBPA has consolidated good practice on combating violence in licensed premises into a guide to risk assessment, to be published shortly. This will be available on our website at <a href="http://www.beerpub.com">www.beerpub.com</a> in due course.		Include as Best Practice
K	Lower Holker Parish Council	4.5.1	The permitted licensing hours are too long and should end earlier than as at present.	Each application is treated on its own merits having regard to any relevant representations made.	No change in policy.
K	Mr G Critchley	4.5.1	Areas outside public houses should be restricted in their use after 11.00pm.	As above. There is no provision in the legislation to impose blanket restrictions on the use of outside areas.	No change in policy.
A	Planning & Dev Unit	4.5.7	Refers to parking. Should county highways be a consultee?	Not a Resp. Auth. in Act	No change
B	Barrow Planning Department	Page 20 Para 4.5.8	At the end of the last bullet point add "including conformity with the requirements of the Planning Authority"	This para. relates to Public Nuisance objective. Conformity with the	No change

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				requirements of planning auth. Is not necessarily relevant to promoting prev. of pub. Nuisance.	
B	Barrow Planning Department	Page 21 Para 4.5.12 (or 4.5.11)	From the second line delete “a predominantly residential area where” and replace with “ an area where there are residences in the vicinity which would be adversely affected, such that”.	Agreed	From the second line delete “a predominantly residential area where” and replace with “ an area where there are residences in the vicinity which would be adversely affected, such that”.
A	Env Health Unit	4.5.22 (or 4.5.21)	If covers (shelters) are to be provided for external tables and chairs, regard will need to be had to the smokefree legislation and planning consent	Agreed	4.5.21 2 <sup>nd</sup> last line change to read “highways, planning and smoking will not be contravened”
Cp	Public Protection	4.6.3 4.6.4	Requirement for written procedures for prevention of under age sales for existing and new licensees	Can't impose any conditions on existing PLs For new applications could be added as a bullet point but would still depend on reps being received	Bullet point on end 'Requirements for written procedures to be established for the prevention of under age sales and for this to be open to inspection'.
K	Cumbria County	4.6.10 (or	To include a section in the policy	Could only be	4.6.9 Delete para. and replace

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CI A	Council Trading Standards	4.6.9)	which requires licensees to establish written procedures for the prevention of under age sales.	included as guidance to licensees on "best practice" and not as a formal requirement.	with "The authority expects personal licence holders to ensure that alcohol is not supplied to children under 18 years, except in the limited circumstances allowed by law. The authority would encourage premises licence holders to have written procedures for the prevention of under age sales"
K	Kendal & South Lakeland Licensed Victuallers' Association.	4.6.11 (or 4.6.10)	Portman group no longer issues proof of age cards.	Accept	Delete bullet point referring to Portman Group.
A	Cumbria Police	4.8	Want to attach standard conditions to all licences after midnight ie CCTV & door staff	Not in the spirit of the Act, however may be condition in the event of rel. reps.	No change
Cp	Business Against Crime Whitehaven Partnership	4.8.2 4.8.4	Request to impose condition to be a member of nightsafe	Can't impose conditions without rel. reps. or it being included in operating sched.	No change
		4.8.8	Requirement to be able to amend Model Conditions and include nightsafe	Already in the model conditions	No change – does not relate to policy

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B	Barrow Planning Department	Page 29 Para 4.8.4	On the third line delete “and the representations made” and replace with “the representations made and the conditions on the planning permission for the premises”	DCMS Guidance para. 13.65 states that licensing & planning are different & neither are bound by the decision of the other.	No change
K CI	British & Beer Pub Association	6.	We would welcome recognition of the Hampton principles of inspection and enforcement in this section, which include the following: No inspection should take place without a reason. Regulators should recognised that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection.		
CI K A	British & Beer Pub Association	6.	We would welcome recognition of the Hampton principles of inspection and enforcement in this section, which include the following: No inspection should take place without a reason. Regulators should recognised that a key element of their activity will		New 6.8 The Authority recognises the Hampton principles of inspection and enforcement, which includes: No inspection should take place without a reason. Regulators should recognise that a key element of their activity will be to allow or even encourage,



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			be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection.		economic progress and only to intervene when there is a clear case for protection.
A	Env Health Unit	6.1	Enforcement concordat is to be replaced by the "Regulators Compliance Code" from April 2008 Wording should reflect this	Agree	Insert at end of para. "This is expected to be known as Regulators Compliance Code from April 2008"
B	Timothy Bell	N/A	Off licences should label alcohol sold by them with "where purchased" i.e. Purchased at Tesco, Asda, Booze Buster etc to enable Authorities to trace the source of alcohol when found being consumed by youths. (Protection of children from harm)	Not for the policy. In event of rel. reps. Sub comm. Have option to impose as a condition	No change
CI	University Hospitals of Morecambe Bay NHS Trust		Nothing to add		No change
A	Env Health Unit		The use of special effects such as foam used in foam parties can cause an increased risk of injury. It may be worth including something in the policy to require risk assessments to be submitted and approved by the licensing authority in advance of their use	Already included at 4.4.4. Resp. Auth. Can take action under their own leg.	No change
K	Disability Rights Commission		Do not have the resources to respond to consultations	Noted	No change
K	John Greenback, Cumbria Trading Standards		agree with the contents of the revised draft policy	Noted	No change

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K	Punch Taverns Jubilee House Burton on Trent		No comments to make	Noted	No change
CI	CCC Legal Services		No comment	Noted	No change
CI	Cumbria NHS Trust		No comments	Noted	No change
Cp	Bargain Booze		No Comments	Noted	No change
Cp	12 Licensed Premises		No Comments	Noted	No change
Cp	St Mary's Catholic Mens Society		Licensing Policy adequate for their needs	Noted	No change
Cp	RB Wilson Chairman Nightsafe Whitehaven		Requirement that all licensed premises be required to be a member of pubwatch	Cannot impose conditions unless on O.S. or as result of representation s being received	No change
Cp	Whitehaven Police Station PC Taylor		Same as above	Same as above	Same as above
Cp	J Thornton Bluebell Market Place Egremont		Pubwatch scheme should be enforceable by law and premises licences should be consistent	Not possible  All applications are treated on their own merits which means that some will have different hours to others	No change  No change
CI	Resident Denton Street, Carlisle		Refuse to licence small shops to reduce opportunities for under age drinking.	Each application must be	No change

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				considered on its own merits and a blanket ban cannot be imposed.	
CI	Showmen's Guild of Great Britain		Travelling fairs do not require a licence as they do not come under regulated entertainment	Noted	No change
CI A K	British & Beer Pub Association	General	We have a concern that the Council may receive representations for change to which we will be unable to respond until after the policy is approved by the Council. We would take this opportunity therefore to highlight an issue, not mentioned above, which we would not support being included in the final policy document as it is beyond the provisions of the Licensing Act: Applications to be completed in a specific manner, other than that prescribed in regulations. There is a danger that the licensing authorities 'expectations' could be construed as requiring applicants to offer a significant number of restrictions in their operating schedules. You will know that licensing authorities should never mislead applicants into believing that they must meet certain requirements.	Agreed	No amendment to policy but can be reviewed at any time. Note when considering other representations.

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A	Wigton Town Council		Wish for town council to be regular consultee for all applications.	Not a Resp. Auth. Local arrangement may be made.	No change
A	Allhallows Parish Council		As above. Not in the spirit of the Parish charter to which Allerdale and Town/parish councils are signed up partners	Not a Resp. Auth. Local arrangement may be made.	No change
A	Aspatria Town Council		Wish to be consulted on all licensing matters	Not statutory requirement	No change
A	Cockermouth Town Council		No comments to make		No change
A	Cumbria Fire & Rescue Authority	Appendix 5 Best practice	Insert: Fire safety risk assessment – small (up to 60) and medium (60-300) places of assembly ISBN-10:185112 8204 Fire safety risk assessment – large (300+) places of assembly ISBN-10:185112 8212 Fire safety risk assessment – open air events and venues ISBN:978185112 8235	Updated information on best practice guides	Insert in Appendix 3
B	Howard Leech	N/A	Would like paragraph indicating that “illegal” demands for money to enter licensed premises is not allowed.	Not relevant	No change
A	Planning & Development Service	App. 5 Contact address	Phone numbers and addresses for planning and env health incorrect		Ensure all contact details correct



Carlisle City Council

# **LICENSING ACT 2003**

## **REVIEW OF STATEMENT OF LICENSING POLICY**

August 2007  
**Version 2**

Written comments are invited on this  
draft revised policy by **26<sup>th</sup>** October 2007 to:

Mr J A Messenger  
Licensing Manager  
Carlisle City Council  
Civic Centre  
Carlisle  
Cumbria CA3 8QG

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Email: [licensing@carlisle.gov.uk](mailto:licensing@carlisle.gov.uk)

**Further copies may be obtained from the above address or from the Council's website:-  
[www.carlisle.gov.uk](http://www.carlisle.gov.uk)**

## Foreword

To be completed

# **Carlisle City Council Licensing Authority**

## **Statement of Licensing Policy**

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## 1. INTRODUCTION

- 1.1. The Licensing Act 2003 regulates the licensable activities on licensed premises, by qualifying clubs and at temporary events.
- 1.2. Carlisle City Council is a licensing authority (the authority) for the purposes of the Act. The Authority must carry out its licensing functions with a view to promoting the four licensing objectives, which are:
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 1.3. The Act makes provision about the regulation of four licensable activities, which are:
  - The sale by retail of alcohol
  - The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
  - The provision of regulated entertainment,
  - The provision of late night refreshment,
- 1.4. Regulated Entertainment is:
  - A performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - A boxing or wrestling entertainment
  - A performance of live music
  - Any playing of recorded music
  - A performance of dance
  - Any other entertainment of a similar description to the music and dance categories above, and
  - The provision of facilities for enabling persons to take part in
    - making music
    - dancing, or
    - entertainment of a similar description for purposes which include the purpose of being entertained
- 1.5. Late Night Refreshment is:
  - the supply, on or from any premises, of hot food or hot drink to the public for consumption on or off the premises between the hours of 11pm and 5am
- 1.6. Applicants are referred to the provisions of the Act for further information on licensable activities including limitations and exemptions.



- 1.7. Section 5 of the Act requires the authority to determine its policy for a three year period with respect to the exercise of its licensing functions under the Act and revise its policy every three years. It is required to publish a statement of that policy and this document is that statement. The policy is to be kept under review and shall be revised at such times as the authority considers appropriate.
- 1.8. Prior to determining its licensing policy, the authority consulted with various persons and organisations. The consultees and procedure that was followed are set out in Appendix 4. The authority is grateful for all of the representations it received. The authority will also consult as required prior to revising its licensing policy.
- 1.9. In determining its policy, the authority considered the provisions of the Act and had particular regard to:
- the licensing objectives
  - the guidance issued by the Secretary of State under section 182 of the Act
  - the representations made following consultation
  - its duties and obligations under other legislation, including:
    - The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, such as licensees:
      - since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability;
      - since October 1999 they have had to make reasonable adjustments for disabled people, such as providing extra help or making changes to the way they provide their services; and
      - from 2004 they will have to make reasonable adjustments to the physical features of their premises to overcome physical barriers to access.
    - The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
      - Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and 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 private life; and
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on our Authority to have due regard to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups. Carlisle City Council is committed to carry out extensive work to ensure that the Council meets the requirements of the Race Relations legislation.
- The Crime and Disorder Act 1998 – section 17 of that Act imposes a duty on local authorities to exercise their functions with regard to the impact on crime and disorder and the need to do all it reasonably can to prevent crime and disorder in its area.

1.10. In addition to its powers under the Act, there is also a range of other legislation which is relevant to the provisions of this Act. This includes:

- Health and Safety at Work Etc. Act 1974
- Town and Country Planning Act 1990
- Environmental Protection Act 1990
- Criminal Justice and Police Act 2001
- Fire Precautions Act 1971 (Parts to be repealed)
- Crime and Disorder Act 1998  
(as amended by the Police and Justice Act 2006)
- Anti-Social Behaviour Act 2003
- Regulatory Reform (Fire Safety) Order 2005
- Health Act 2006  
(This is not an exhaustive list)

1.11. The authority will seek to use the full range of its powers in promoting the licensing objectives. Some relevant legislation gives powers to the police and other authorities to act. The authority will seek to work in partnership with those authorities, as well as with businesses and other interested parties, to promote the licensing objectives.

1.12. If representations are made conditions may be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives. These will be focussed on matters, which are within the control of individual licensees, and others granted relevant authorisations. If no representations are made the only conditions that will be attached to a licence will be those that are consistent with the Operating Schedule and statutory conditions under the 2003 Act.

- 1.13. The authority has been careful to avoid duplication with other regulatory regimes in formulating its policy and will seek to avoid duplication in the exercise of its licensing functions. There will be free exchange of information between the relevant authority staff and relevant committees (including, for example, the planning applications committee). Applicants are encouraged to make any necessary applications for planning permission at the same time as they make an application for a licence.
- 1.14. The policy statements in this document are for the guidance of applicants in preparing applications and for those affected by proposals. They set out the usual stance that the authority will take in relation to applications. For applicants' information, the reasons why policies have been adopted have often been summarised after the policy. The reasons are given for information only and do not form part of the policy. Brief summaries of the law have also often been included for guidance and ease of reference only; they are not intended to be either comprehensive or definitive.
- 1.15. Applicants are encouraged to discuss their circumstances/proposals with officers from the authority and other responsible authorities prior to submission of an application for a licence. Applicants are also encouraged to inform local residents and businesses of their intentions. It is hoped that this will help to minimise the possibility that relevant representations will be made objecting to the proposals. In this way, the authority and applicants will best be able to affect the grant of licences, which meet applicants' requirements whilst promoting the licensing objectives.
- 1.16. Applications (including all accompanying documents) must be in the prescribed form and must meet all of the requirements of the Act.
- 1.17. Failure to submit an application in the correct form will result in that application being returned. The authority will endeavour to explain why the application is considered to be deficient and will invite the applicant to re-submit the application with all the required information.
- 1.18. The Act limits the representations, which can be made about, licence applications and who can make such representations. Essentially, representations must relate to one or more of the licensing objectives and must be made by a person living or working in the vicinity of the premises or an organisation, which represents such persons. Anyone considering making an objection is invited to discuss their objection with licensing officers prior to submitting their representation.
- 1.19. In this document:
- "the Act" means the Licensing Act 2003.
  - "the authority" means the Licensing Authority, namely South Lakeland District Council
  - "the District" means the area within the authority's jurisdiction

- Unless indicated to the contrary the words and phrases defined in the Act shall have the meanings given in the Act when used in this document.
- Any reference to the grant of a licence, certificate or provisional statement shall, unless the context indicates or it is specifically stated otherwise, include reference to the variation, review or renewal of a licence.
- Policies in relation to premises licences shall also apply to provisional statements and club premises certificates unless it is expressly stated to the contrary or the context indicates otherwise
- The Authority shall not rely upon those paragraphs entitled “Reason”. These are included to explain why the authority reached a particular policy decision.
- Words denoting any gender shall include all genders, words in the singular shall include the plural and vice versa, and words denoting persons shall include firms and corporations.

## **2 FUNDAMENTAL PRINCIPLES**

- 2.1 The policy will promote the four licensing objectives contained in the Act, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- 2.2 Nothing in the Statement of Licensing Policy will undermine the rights of any person to apply under the Act for a variety of permissions and have their application considered on its individual merits as well as against the relevant policy and statutory framework. It does not override the right of any person to make representations on any application or to seek a review of a licence or certificate where they are permitted to do so under the Act.
- 2.3 All licensing applications will be determined on their individual merits following consideration of the proposals in the application and any relevant representations. In general, licences will be granted on the terms applied for but licences will not normally be granted in terms which conflict with any of the policies in this document unless an applicant is able to demonstrate that the exceptional circumstances of their application justify a departure from the policy. The Authority will not depart from the policy if any of the licensing objectives will be undermined by a proposal in the application.
- 2.4 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. The licensing function cannot be used for the general control of anti social behaviour once consumers are beyond the direct control of the individual, club or business holding the licence, certificate or other authorisation concerned. However the Authority expects every holder of a licence, certificate or permission to make every effort to minimise the impact of their activities and anti social behaviour by their patrons within the immediate vicinity of their premises.
- 2.5 The Authority is keen to promote the artistic and cultural life of the District and licensing will be approached with a view to encouraging cultural activities and

innovative forms of public entertainment for the wider cultural benefits of communities generally. Only conditions strictly necessary for the promotion of the licensing objectives will be attached to a licence for activities of this nature, as the Authority are aware of the need to avoid imposing substantial indirect costs. Where there is any indication that licensing requirements is deterring such events, the policy may be reviewed with a view to investigating how the situation may be remedied.

- 2.6 The Authority aims to create a safe and family friendly environment with the District, particularly within the town centres. Applicants should give consideration to this when preparing their operating schedules.
- 2.7 However, the Authority expects that Designated Premises Supervisors should normally be on the premises when alcohol is supplied. Where they are absent from the premises they will still be ultimately responsible for the actions of those they authorise to permit sales of alcohol. It is considered good practice that any such authorisations should be in writing. Where any person who does not hold a personal licence is authorised to sell alcohol, the Designated Premises Supervisor is encouraged to provide, or ensure that, the person has some training on the requirements of the Act and any conditions attached to the licence. It is recommended that a record of such training is maintained.
- 2.8 The Authority is aware that different areas and premises within the District have different characteristics and where possible will ensure that licence conditions reflect these. In particular:
- Villages of a more quiet and rural nature
  - Urban centres, particularly where redevelopment is being encouraged
  - Village halls and community type premises which are the centre of the community and run effectively by volunteers
- 2.9 The Authority recognises that there is a need to disperse people from town and city centres swiftly and safely to avoid concentrations which produce disorder. The Licensing Committee will report any concerns to the local transport authority identified in the Local Plan.
- 2.10 The Licensing Committee will consider wider issues which may need to be given due consideration and will periodically receive reports on:
- Needs of the local tourist economy
  - Cultural strategy for the area
  - Employment situation in the area and the need for new investment and employment where appropriate

### **3 PERSONAL LICENCES**

#### **The Law (Part 6 of the Act)**

- 3.1. A personal licence is a licence granted to an individual, which authorises that individual to supply alcohol or authorise the supply of alcohol.
- 3.2. A person should submit an application for a personal licence to the licensing authority for the area in which they are ordinarily resident.
- 3.3. If granted a personal licence has effect for a period of ten years after which it can be renewed for further periods of ten years at a time.
- 3.4. An applicant for a personal licence must be aged 18 or over and must possess a licensing qualification and no personal licence held by him must have been forfeited in the period of five years ending with the date of his application (section 120(2) of the Act).
- 3.5. The authority will require all applicants to produce a Criminal Records Bureau certificate.
- 3.6. Only the police may object to the grant of a personal licence to an individual. Such an objection can only be made where the applicant has been convicted of a relevant offence or any foreign offence and the police consider that the grant of a licence would undermine the crime prevention objective.
- 3.7. Policy

Provided that the applicant meets the requirements of section 120 (2) (a), (b) and (c) of the Act, the application of an individual for a personal licence will be granted save that if the applicant has been convicted of a relevant offence which is unspent under the Rehabilitation of Offenders Act 1974, and the chief officer of police has given the authority an objection notice, a licence will not normally be granted unless the applicant can demonstrate that the grant to him of a personal licence would not undermine the crime and disorder prevention objective. In considering the application, the authority will afford the applicant a right to a hearing before its Licensing Committee or a sub-committee of the Licensing Committee. Applicants are referred to Section 8 of this document, dealing with the exercise and delegation of functions. The factors that the Council will take into account when considering representations in this matter include (but are not limited to) the following:

- the nature and type of the offence
- how long ago the offence was committed
- how serious the offence was
- whether the offence was premeditated or was the result of a genuine mistake
- whether the applicant abused a position of trust when he committed the offence
- whether the offence was motivated by discrimination

- the conduct of the applicant since commission of the offence

#### Reason

The authority has a duty when exercising its licensing functions to promote the prevention of crime and disorder and the other licensing objectives. Unless the circumstances are exceptional, granting a licence to an individual with a relevant conviction would undermine the authority's ability to promote the crime prevention objective. Personal licence holders are expected to act in accordance with the law and will be key to ensuring that the provisions of the Act, and any conditions attached to a premises licence, are complied with. The authority also has a duty under the Crime and Disorder Act 1998 to have regard to the effect on crime and disorder of the exercise of any of its functions and to do all it can to prevent such crime and disorder.

## **4 PREMISES LICENCES/CLUB PREMISES CERTIFICATES**

4.1.1. Unless the context indicates to the contrary, the policies in this section shall relate to the grant of a premises licence, the issue of a provisional statement and the grant of a club premises certificate.

4.1.2. The law

Premises Licence (Part 3 of the Act):

A premises licence authorises the use of premises for one or more of the licensable activities. Premises may be any place including a piece of land. Applications can be made for a premises licence for any premises situated in the District.

4.1.3. An application for a premises licence will be required for large temporary events, which are outside the provisions relating to temporary event, notices. (See also Paragraph 7)

4.1.4. Individuals, companies, charities and other specified persons and organisations may make applications. An individual may not apply unless he is aged 18 years or over.

4.1.5. An application can be made to the authority for any place used for licensable activities or recognised club activities within its area and the application must be accompanied by:

- The required fee
- An Operating Schedule
- A plan of the premises
- If it is intended to sell alcohol a form of consent given by the person the applicant wishes to have specified in the Premise Licence as the Premises Supervisor.

4.1.6. The applicant will also be required to notify, and enclose a copy of the application and relevant attachments, to all Responsible Authorities for the South Lakeland District Council Licensing Authority area. These include:

- The Chief Officer of Police, Cumbria Constabulary
- The Chief Fire Officer, Cumbria Fire & Rescue Service
- Food, Health & Safety Team, Community Services, Carlisle City Council
- Health & Safety Executive (where appropriate)
- Development Control, Planning Services, Carlisle City Council
- Children's Services, Cumbria County Council, Portland Square, Carlisle
- Trading Standards, Cumbria County Council, Earl Street, Carlisle
- Any Licensing Authority in whose area part of the premises is situated.
- In relation to a vessel the appropriate authority;
  - the Maritime and Coastguard Agency
  - The Environment Agency
  - The British Waterways Board

(Responsible Authorities may require risk assessments and other documentation to be provided.) See Appendix 7 for contact addresses

4.1.7. All applications must be in the prescribed form and include all necessary documents. Those requirements are set out in Section 17 of the Act. Particularly important is the operating schedule, which must include a statement of the following matters:

- the relevant licensable activities
- the times during which it is proposed that the relevant licensable activities are to take place
- any other times when it is proposed that the premises are to be open to the public
- where the applicant wishes the licence to have effect for a limited period, that period
- where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor
- where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises or both
- the steps which it is proposed to take to promote the licensing objectives
- such other matters as may be prescribed

4.1.8. Applicants will be required to advertise and give notice of their applications in the manner prescribed by Regulations.

4.1.9. Club Premises Certificates (Part 4 of the Act):



The authority may issue a “Club Premises Certificate” to a qualifying Club. The Certificate will specify that the premises may be used for one or more of the ‘qualifying club activities’ and that the Club is a qualifying Club in relation to each of those activities.

4.1.10 The qualifying Club activities are:

- The supply of alcohol by or on behalf of the Club to or to the order of a member of the Club;
- The sale by retail of alcohol by or on behalf of a Club to a guest or a member of the Club;
- The provision of regulated entertainment where that provision is by or on behalf of the Club for members of the Club or members of the Club and their guests.

4.1.11 The Club is a qualifying Club in respect of the qualifying activities provided that, under the rules of the Club,

- a person may not be admitted to membership, or be admitted as a candidate for membership, to any of the privileges of membership without an interval of at least two days between their nomination or application for membership or their admission, or
- people becoming members without nomination or prior application may not be admitted to the privileges of membership without an interval of two days between them becoming members and their admission, and
- the Club is established and conducted in good faith as a Club, and
- it has a minimum of 25 members.

4.2.1 General Policy

4.2.2. Consideration of the impact of licensable activities

4.2.3. If representations are made when considering an application for a licence, the authority will take into account the following factors in assessing its likely impact on the licensing objectives in addition to other relevant matters:

- the nature of activities proposed,
- the number of customers likely to attend the premises and the type of customers expected
- the location of the premises
- the proposed hours of operation;
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
- the physical and accessible nature of the premises
- the level of likely car parking demand in relation to the use of the premises in comparison with the existing situation and the likely effect on the movement of priority traffic;

- the cumulative impact of licensed premises in an area;
- the scope for mitigating any impact;
- how often the activity is to occur.

4.2.4. In considering any application where premises are already licensed, or have in the past been licensed for any of the licensable activities (under this or previous legislation), the authority will take into account any evidence from a Responsible Authority or Interested Party of demonstrable adverse impact from the activity in the past and, if adverse impact has been caused, whether appropriate measures have been proposed or put into effect by the applicant to mitigate that adverse impact. The authority will also consider any changes of circumstances since the past problems occurred.

#### Reason

The prime purpose of this policy is to promote the licensing objectives. In furtherance of this aim the policy lists particular matters that the Authority will take into account in considering whether a licensed activity is likely to cause an adverse impact.

The aim of the policy is, therefore, to achieve a balanced approach to these issues.

4.2.5 The Authority will support the provision of culture, arts and indoor sporting events such as music, theatre, street art and circuses and will encourage the Council and Parish Councils to seek premises licences for public spaces within the community in their own name.

#### Reason

The policy statements in this document have been prepared following extensive consultation with a range of interested parties, including trade representatives and the local community. The wishes of applicants have been balanced with the public interest in promoting the licensing objectives. All limitations and restrictions on licences are considered necessary to promote the licensing objectives. Whilst the circumstances of an individual application may justify a departure from some of the policy statements, general adherence to the provisions of the policy will ensure consistency in decision making. This provides certainty for applicants and promotes public confidence in the licensing regime and the quality and safety of licensed premises.

### 4.3. Prevention Crime and Disorder

#### 4.3.1 General Policy

The licensing authority's starting point is to seek a reduction in crime and disorder throughout the District, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998.

Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.

4.3.2. In the event of representations being made, the Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in crime and disorder in the area. Where necessary, applicants are expected to consider the impact of their proposals on crime and disorder both within and in the vicinity of the premises and to propose practical steps in their operating schedule to prevent crime and disorder. Such steps could include:

- use of CCTV inside and outside the premises
- use of metal detection or other search equipment or procedures
- crime and disorder risk assessment in relation to the proposed activities
- measures to prevent the use or supply of illegal drugs
- ensuring that all staff are appropriately trained
- Determine the safe occupancy capacity for the premises by carrying out a fire safety assessment
- employment of sufficient security staff controlling admission and patrolling the interior and exterior of the premises (such staff will be required to be licensed by the Security Industry Authority). The Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub.
- participation in Pub Watch, Best Bar None or other relevant schemes
- agreed protocols with police and other organisations and a commitment to cooperate and provide such evidence as the Police require
- ensuring that measures to disperse customers over an extended period and ensure customers leave the venue in an orderly fashion and without bottles or glasses

4.3.3. In the event of Police representations, the authority will not normally specify a person as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person's known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he has been granted a personal licence.

4.3.4. Crime and Disorder Reduction Partnership

Where appropriate applicants will be expected to have regard to the information published by the South Lakeland Crime and Disorder Reduction Partnership and consider the impact of their proposals on the issues identified as being of particular concern in the area for example:

- Violent crime
- Fear of crime

- Road safety
- Anti-social behaviour

Applicants will be expected to propose steps to reduce the risks of such crimes increasing as a result of the licensable activities proposed.

#### Reason

The prevention of crime and disorder is one of the licensing objectives, which the Authority is under a duty to promote. The Authority recognises that some licensed premises can attract or encourage criminal behaviour, especially disorder problems where customers have consumed alcohol.

#### 4.3.5. Drugs

##### Policy

The Authority will expect licensees of venues likely to be affected by drugs to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent problems arising as a result of drug misuse. This could include the provision of free water and a disposal policy for drugs, needles and the development of a drugs policy.

In particular the Authority will expect licensees and other staff in such venues to be familiar with the contents of the book “Safer Clubbing” issued by the London Drugs Policy Forum and endorsed by the Home Office and will expect licensees to follow the guidance it contains in relation to the operation of their premises. Safer Clubbing is available to download at:

<http://www.drugs.gov.uk/ReportsandPublications/Communities/1034174284>

In appropriate cases the Authority will consider imposing these recommendations by way of licence conditions.

#### Reason

Evidence indicates that more people are taking illegal drugs and are using a wider range than ever before. This is particularly true of what are often referred to as ‘recreational drugs’. Their misuse can hold grave dangers and has even led to fatalities.

Other factors coupled with the taking of the drugs may have contributed to these deaths, such as lack of drinking water, excessive drinking of water, an overly hot environment with inadequate ventilation, or a lack of adequate information about drugs.

Drugs alter the way people behave, so law controls their distribution and possession. Controlled drugs are usually manufactured and supplied illegally, which attracts criminal involvement in their distribution. Drugs manufactured illegally often vary in quality and strength. This puts people taking such drugs in danger.

The authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises. However, many entertainment venues such as nightclubs and dance venues can be popular both with drug misusers and suppliers. It also recognises the difficulties for those running such premises in preventing the use and supply of drugs in their premises. However, it believes that steps can be taken to increase the safety of drug users on premises.

The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing a tragic loss of life caused by overheating and other factors brought about by and associated with drug abuse.

#### 4.4 Public Safety

##### Policy

- 4.4.1 The authority may inspect any premises in respect of which an application has been made. Officers will determine on the basis of risk which premises require an inspection and will inform the applicants and arrange an appointment as soon as practicable.
- 4.4.2. Where an inspection is to be carried out, the authority's licensing officers will aim to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits along with representatives of the relevant Responsible Authorities.
- 4.4.3. A premises licence will not normally be granted unless the premises meet the statutory and any reasonable additional requirements of the Responsible Authorities.
- 4.4.4. It is acknowledged that the Act covers a wide range of types of premises including cinemas, concert halls, theatres, pubs, night clubs, private members' clubs, shops, restaurants and takeaways. Each type of premises has different risks associated with it. It is essential that applicants assess all of the risks presented by their premises and proposes practical steps to ensure the safety of staff and customers.
- 4.4.5 The Authority considers it best practice for all applicants to assess the risks in relation to the following issues.
- 4.4.6. Electrical safety: - The Any assessment should be carried out in the context of the proposed licensable activities and to meet the appropriate British

Standards. Other relevant conditions may be imposed requiring such standards to be maintained throughout the period of the licence.

- 4.4.7. Fire Safety – The fire risk assessment completed in relation to the use of the premises, should assist applicants in satisfying the Fire and Rescue Authority that the Public Safety objective will be met. Each premise will be audited by the local fire protection team as dictated by that team's own risk based audit programme. Where representations are made, the Licensing Authority may impose conditions to secure compliance with the requirements of the Fire and Rescue Authority.
- 4.4.8. Sanitation – Provision should be made for adequate sanitary facilities to be provided in accordance with the appropriate guidance and capacity of the premises (currently e.g. BS6465 or HSG 195 The Event Safety Guide).
- 4.4.9. Seating – Where customer seating is provided, it should be demonstrably safe in consideration of the intended activities and, again, should meet British Standards (currently BS5588).
- 4.4.10. Occupancy Limits – The authority will not generally impose conditions as to occupancy levels where these are adequately addressed by other controls but may do so in any other case where relevant representations are made.
- 4.4.11. Maintenance - in event of representations beings made, the authority will normally impose conditions to secure the provision and adequate maintenance of premises and equipment and the compliance with any procedural requirements of any relevant organisation (where such conditions will not duplicate requirements under existing legislation). E.g. electrical safety, fire alarm, emergency lighting, ceiling certificate, structural survey. It will also expect that adequate records will be kept to demonstrate compliance with the above requirements.
- 4.4.12. Prevention of injury – Where:
  - there is evidence of a current or past problem in relation to particular premises or a particular locality, or
  - in all the circumstances it is considered likely that such a problem might occur, and/or
  - premises are to be used primarily for the sale/supply and consumption of alcohol (particularly if those premises have little seating for patrons relative to their size/capacity),

applicants should give consideration to a policy as to the use of plastic, polycarbonate or toughened glass, and a policy not to pass glass bottles over the bar, either throughout the period of operation or at certain times or on certain occasions, and should include such policies in their operating schedule. If relevant representations are made and the Authority considers it to be necessary, it may impose conditions to secure this.

The Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass related injuries

#### Reason

The Authority expects premises that are open to customers to meet the highest standards of the relevant organisations in order to best secure the safety of staff and customers. This is also one of the licensing objectives. The Authority believes that customers should feel confident that when they enter premises they will be safe.

### 4.5 Prevention of Nuisance

#### 4.5.1 General policy on Licensing Hours

- 4.5.2. The authority recognises that fixed and artificially early closing times can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. Longer licensing hours, particularly relating to the sale of alcohol may therefore be a factor in reducing disorder at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.
- 4.5.3. The authority will not seek to introduce any form of 'zoning' in relation to licensing hours. Zoning is defined as the setting of fixed trading hours within a designated area. All residents living in the vicinity of licensed premises have equal rights to make representations concerning applications for and reviews of premises licences, including hours of trading and to have those representations given equal weight regardless of where they live.
- 4.5.4. Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops that are known to be a focus of disorder and disturbance then, subject to representations from the police, a limitation on licensing hours may be appropriate.
- 4.5.5. In general, the authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises that are situated in predominantly residential areas and other noise sensitive locations.

#### Reason

Experience in other areas shows that zoning can lead to additional problems including the movement of people in search of premises opening later and can put greater pressure on town centres than is necessary.

#### 4.5.6. Policy - Location of premises

4.5.7. The authority will assess the potential impact of the premises against the characteristics of the area in which they are situated. For example, in the event of representation being made there would be close scrutiny of applications for a closing time of later than 11 pm in respect of premises situated in quiet residential areas with low background noise. Greater flexibility on closing times would be considered where for example, applicants could demonstrate that

- there is a high level of accessibility to public transport services
- there is an appropriate amount of car parking, readily accessible to the premises, and in places where vehicular movement will not cause demonstrable adverse impact to local residents
- the operating schedule indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.
- the licensable activities would not be likely to cause adverse impact especially on local residents, or that, if there is a potential to cause adverse impact, appropriate measures are to be put in place to prevent or minimise that impact;

#### Reason

This part of the policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas like parts of the town centres and the rest of the District.

Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the footway. Public nuisance may also be caused by customers being noisy when leaving, leaving litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

Parts of the District are sensitive to the impact of licensable activities because they are either residential in character or close to residential areas. Many shopping areas are abutted by residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of customers arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local



residents in preventing them from parking close to their homes and by increasing the danger from traffic in residential streets.

However, some commercial areas in the District, such as parts of town centres, may be more suitable locations for licensed activities, especially for those, which have late opening hours or attract significant numbers of people. In town centres, more customers are likely to travel by public transport and the activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with predominantly residential areas so that additional noise may be less objectionable.

An entertainment use attracting large numbers of people should be very close to bus routes or taxi ranks, for instance. For the same reasons, the level of public transport accessibility will be an important factor in considering any exception to the normal closing times in any location.

#### 4.5.8 Noise

#### 4.5.9. Policy

4.5.10. In the event of representations being made, the authority will not normally grant a premises licence in terms, which are, in its opinion, likely to result in increased noise disturbance to people living or working in the vicinity.

4.5.11. In particular, the authority will give careful consideration to an application for a licence for premises situated in an area where there are residences in the vicinity which would be adversely affected, such that the proposed hours of operation would be likely to result in unreasonable noise disturbance between the hours of 11pm and 7am.

4.5.12. The authority expects the applicant to assess the likely sources of noise disturbance that could arise due to the proposed use consider the existing noise context of the area and propose practical steps to prevent noise disturbance or minimise its effects.

#### 4.5.13 Potential sources of noise include:

- sound leakage from the licensed premises (from entertainment provided, customers on the premises, mechanical equipment etc)
- customers and staff arriving and leaving the premises (including car doors slamming)
- excessive noise from outside entertainment
- customers occupying outside areas for the purpose of smoking and/or the consumption of alcohol

#### 4.5.14. Practical steps could include:

- keeping doors and windows closed whilst entertainment is provided

- installing soundproofing measures to the premises (specialist double glazing, acoustic hoods over extractor fan outlets etc)
- reducing sound levels inside the premises (inclusion of a sound limitation device in the sound system)
- Customers occupying outside areas for the purpose of smoking and/or the consumption of alcohol.
- ensure that queues are directed to form leading away from residential premises
- ensure that sufficient door security staff manage queuing and leaving customers to minimise noise
- erect prominent notices at exits requesting customers to leave quietly
- reduce the volume of music entertainment towards the end of the evening
- giving free lollipops to customers leaving the premises
- ensuring that sufficient transport is nearby to enable customers leaving the premises to disperse quickly
- banning from the premises customers known to cause noise disturbance regularly on leaving the premises
- ensuring that customers are encouraged to leave the premises (including any car park or forecourt) swiftly
- ensure the volume of outdoor entertainment does not cause noise disturbance
- terminating the provision of entertainment at a reasonable time
- the prospect of providing police supervision at closing times

4.5.15. The authority may impose conditions to ensure that appropriate steps are taken to minimise noise disturbance.

4.5.16. Live Music, Dancing and Theatre

4.5.17 The authority recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, particularly for children.

4.5.18. When considering applications for such events and the imposition of conditions on licences or certificates, the authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives.

4.5.19. 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.

#### Reason

The prevention of public nuisance is a licensing objective. Noise disturbance can be a public nuisance. The authority is required to promote the licensing objectives. Granting a licence in circumstances where nuisance is likely to be caused will undermine that objective. The Council recognises that noise from licensed premises can cause

great disturbance to people living and working near those premises. The authority recognises that noise can be a nuisance during the day and at night in both residential and commercial areas and other noise sensitive locations if not properly managed or controlled.

#### 4.5.20 Tables and Chairs outside Premises including garden areas

##### Policy

- 4.5.21. The authority recognises that provision of tables and chairs outside premises either on the highway or on private land may enhance those premises. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs can contribute to noise and disorder problems. This is because they can encourage patrons and passers by to loiter rather than disperse. Licensees should note that in certain areas, byelaws prohibit the consumption of alcohol in public. Before planning to use tables and chairs outside premises (particularly where it is intended that alcohol will be sold), applicants should ensure that they will not contravene any byelaws or orders. Applicants should also ensure that other legislation, for example in relation to highways, planning and smoking will not be contravened
- 4.5.22. In the event of representations being made, the authority will carefully consider any application where outdoor tables and chairs are proposed to be provided. In particular the Council will assess the premises in the context of their location, the hours during which the premises are to be open, the proposed licensable activities and proposals for control of the tables and chairs outside the hours of operation.

##### Reason

This policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent safety and nuisance problems.

#### 4.5.23 Littering

Licences for premises, in particular for the provision of late night refreshment for consumption off the premises, will not normally be granted where nuisance is likely to be caused by way of litter/food refuse being deposited on streets surrounding the premises and such nuisance is expected, due to the nature of the premises and likely customers, to exceed the level of nuisance caused by similar premises open during the day (for which no licence is required). In their operating schedule, applicants are expected to propose practical steps to reduce the likelihood of such problems arising, which could include:

- provision of litter bins and smoking bins on/in vicinity of premises
- litter patrols in the area after premises close (these could be organised in partnership with other premises or the local authority for example)

4.5.24. Conditions may be imposed seeking to limit the nuisance caused by litter.

Reason

Litter and food waste can be detrimental to the amenity of an area and can also represent a public health risk and encourage vermin. This policy seeks to prevent such nuisance occurring in promotion of the relevant licensing objective.

4.6. Protection of Children from Harm

General Policy

4.6.1. The authority will not normally impose conditions prohibiting the admission of children to any premises, unless relevant representations have been made, believing this should remain a matter of discretion for the licence holder. Licence holders should be aware that there may be restrictions imposed by various legislation. In some cases however, it may be necessary to impose conditions designed to protect children.

4.6.2. The authority will take strong measures to protect children from harm where it believes from the nature of the premises or proposed activities that harm would be likely. Examples of premises where the introduction of additional controls may be necessary are:

- Where entertainment of an adult or sexual nature is intended to be provided
- Where those running or working at licensed premises have been convicted of offences of serving alcohol to minors or where there is evidence to suggest that such activities have regularly taken place in the premises
- Where the premises are known to be associated with people taking drugs or dealing in drugs
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- Where the nature of the proposed licensable activity is likely to be more harmful to children than to adults (for example if the likely level of noise from regulated entertainment is likely to be high)
- In any other case where there is a presumption that children under 18 should not be admitted to the type of premises concerned
- Where premises are located near to schools, youth clubs or other premises commonly used by children

4.6.3. In such circumstances while it may sometimes be necessary to impose a complete prohibition on the entry of children to the premises whilst licensable activities are being provided, this would be only rarely imposed. The authority would normally be more likely to impose requirements such as:

- Limitations on the hours when children may be present

- Limitations on the age at which children are to be permitted to enter the premises
  - Limitations or exclusions of children when certain activities are taking place
  - Requirements for accompanying adults
  - How the age of potential customers is to be verified both in terms of entry (where there are age restrictions) and in relation to the service of alcohol
  - Requirements for written procedures to be established for the prevention of under age sales and for this to be open to inspection.
- 4.6.4. Applicants should address the action they intend to take to protect children from harm in their operating schedules.
- 4.6.5. Where there is provision of entertainment specifically for children (e.g. a children's disco) the Authority will require the presence of sufficient adults to control the access and egress of the children and assure their safety.
- 4.6.6. Where children are working in licensed premises or are taking part in any regulated entertainment the authority will expect the responsible adult to obtain guidance from the Cumbria Education Directorate.
- 4.6.7. The authority recognises the Cumbria County Council Children Services as the "Responsible Authority" under the Act, in respect of the protection from children from harm
- 4.6.8. Proof of Age
- 4.6.9. The authority expects personal licence holders to ensure that alcohol is not supplied to children under 18 years, except in circumstances allowed by law. The authority would encourage premises licence holders to have written procedures for the prevention of under age sales.
- 4.6.10. The authority recommends that the only way to verify a person's age is by reference to the following:
- Passport
  - Photo card driving licence issued by an EU country
  - An accredited proof of age scheme identity card
  - A citizen card supported by the Home officer (see [www.citizencard.com](http://www.citizencard.com))
  - An official ID card issued by HM Forces or by EU country bearing the photograph and birth date of the bearer
  - Any other nationally recognised scheme as may from time to time be agreed

The authority recommends that any systems should be accredited and approved by the British retail consortiums Proof of Age Standards Scheme (PASS).

## Reason

Children are vulnerable and can easily become the victims of crime or get drawn into crime. If they were allowed unrestricted access to all licensed premises, they could witness or become involved in activities inappropriate for their age. These policies are designed to allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected. The policy seeks to ensure that children are adequately protected whilst still able to enjoy licensed premises.

### 4.6.11 Adult entertainment

#### 4.6.12 Policy

4.6.13 No-one under the age of 18 should be permitted to enter premises whilst entertainment of an adult nature is being provided.

4.6.14 Adult entertainment should not take place in such a location as could be viewed from the outside of the premises. Advertising of adult entertainment should not include any photographs of the entertainment.

4.6.15 In the event of representations being made, applications which include provision for adult entertainment to be provided, will not normally be granted unless the applicant can demonstrate that performers will be safe and that unlawful activities will not take place.

4.6.16 In considering the grant of applications involving striptease nudity (partial or otherwise) and other forms of adult entertainment the Authority will also have regard to the increased risk of nuisance to nearby residents and will consider rejecting the application or attaching appropriate conditions.

## Reason

These policies are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts. They are also designed to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by prostitutes.

### 4.6.17. Exhibition of films

#### 4.6.18. Policy

4.6.19. Where the exhibition of films is permitted the authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with and will normally impose conditions to

that effect. Only in exceptional cases will variations of this general rule be granted by the authority and then only with appropriate safeguards.

- 4.6.20. Applicants will be expected to include in the operating schedule arrangements for restricting children from viewing age related films classified according to the recommendations of the BBFC.
- 4.6.21. Licensees will not generally be permitted to exhibit any films that are not classified by BBFC without the prior written consent of the authority.
- 4.6.22. To achieve consistency and the protection of children the authority will use the guidelines published by the BBFC. Where it is desired to show films not classified by the BBFC the authority will, provided at least 4 weeks notice has been given, classify the films concerned. Where licensees wish the authority to reconsider the BBFC classification of a film, a similar procedure will be followed.

Reason

To protect children from exposure to films containing adult themes including scenes of violence or of a sexual nature inappropriate to their age.

- 4.6.23. Staging of plays

4.6.24 Policy

- 4.6.25. The authority would not wish to impose any restriction as to the plays, which may be performed on premises licensed for that purpose. The law does not allow any conditions to be imposed regarding the nature of plays which may be performed or the manner in which they may be performed. However, where a play involves:

- The use of bad language
- Nudity or the portrayal of sexual activity
- Violence
- Drug use, or
- Other 'adult' themes or content

- 4.6.26. The authority may impose a condition in relation to the age of children who shall be permitted to watch the play. In this regard, the Authority will be guided by the BBFC guidelines relating to films and would encourage theatres and other venues which intend to stage plays to consider each play they intend to stage in the light of those guidelines and impose an age restriction where appropriate and/or ensure that sufficient information is given to parents in the promotional material for plays to allow them to make an informed choice as to whether to allow their child to attend.

Reason

To protect children from exposure to adult themes or content which is not appropriate to their age.

#### 4.7 Cumulative Effect

##### 4.7.1. Policy

- 4.7.2. Where the authority receives representations from a responsible authority or an interested party that the cumulative effect of licensed premises is leading to an area becoming saturated with premises the Authority will consider whether or not the granting of additional licences might lead to one or more of the Licensing Objectives being undermined.
- 4.7.3. The authority recognises that the cumulative impact of a number, type and density of licensed premises in a given area, may lead to serious problems of public nuisance and crime & disorder outside and some distance from the premises.
- 4.7.4. Where representations are received from a responsible authority/ interested party that an area has become saturated with premises, creating problems of disorder and nuisance over and above the impact from the individual premises, the authority will first consider whether the imposition of conditions is likely to address these problems and, if not, 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.
- 4.7.5. The authority will take the following steps when considering whether to adopt a special saturation policy:
- identify serious and chronic concerns 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
- 4.7.6. A saturation policy will only be adopted where there is clear evidence to support 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.
- 4.7.7. The authority recognises the diversity of licensed premises and will have full regard to those differences and the differing impact each has on the local community.
- 4.7.8. 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.



4.7.9. Evidence of demand or need (or lack of the same) will not be considered.

4.7.10. Other mechanisms for controlling cumulative impact include:

- planning controls
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;
- police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

These may be supplemented by other local initiatives that similarly address these problems.

#### Reason

It is not the policy of the Authority to seek to limit the number of licensed premises, which will be permitted because there are already enough licensed premises to satisfy the demand. That is not a matter for the Authority.

The 'cumulative impact' of the granting of an additional licence on the promotion of the Licensing Objectives is, however, a proper matter for the authority to consider under this policy and the authority may adopt a Special Saturation Policy.

The impact from licensed premises increases considerably in areas where there are concentrations of such premises. The adverse effects from licensed uses are particularly acute in some areas of the District both in and around town centres and elsewhere.

4.8. Consideration of Applications and the Imposition of Conditions

4.8.1. Policy

4.8.2. On granting a licence, the authority may only impose conditions that are:

- required by law, and/or
- necessary for the promotion of the licensing objectives
- and proportionate

4.8.3. If no relevant representations are received, a licence will be granted on the terms sought subject only to such conditions as are consistent with the operating schedule and which comply with the above paragraph and any relevant statutory conditions.

4.8.4. In deciding what conditions to impose, the authority shall have regard to the operating schedule together with the provisions of this policy statement, the law and government guidance and the representations made. Where there is any ambiguity or uncertainty in the meaning of any part of the application, the application shall be interpreted in such a way as shall best promote the licensing objectives.

4.8.5. Where relevant representations are received, the authority will consider those representations together with any representations of the applicant, having regard to the provisions of this policy, the law and government guidance. Where relevant representations have been made, the Authority will not normally grant a licence in terms which conflict with this policy statement. In particular it may

- reject the application – if to do so is necessary to promote the licensing objectives and none of the following actions is reasonably practicable
- grant the licence but exclude from its scope one or more of the licensable activities applied for in order to ensure that the licence complies with this policy and promotes the licensing objectives
- grant the licence but modify such of the conditions imposed as is necessary to ensure compliance with this policy and to promote the licensing objectives
- grant the licence but refuse to specify a particular person or persons in the licence, as the designated premises supervisor if to name that person or persons would undermine the promotion of the licensing objectives.
- Approve different parts of the premises for different activities

4.8.6. The authority will not impose conditions that duplicate other areas of regulation. For example, conditions will not be imposed which simply duplicate planning conditions.

4.8.7. However, there may be occasions when conditions will be imposed which the Authority considers necessary for the promotion of the licensing objectives and which overlap with other areas of regulation, where for example it is considered that planning restrictions do not adequately deal with those matters.

- 4.8.8. In general any conditions imposed will be drawn from a pool of sample conditions.
- 4.8.9. Provided the licensing objectives are not undermined and the proposal does not conflict with the other statements in this policy, licences will be granted so that premises will be able to open to provide licensable activities between such times as the applicant sets out in his application.
- 4.8.10. When deciding what conditions to impose, the authority will have regard to the particular requirements of people with disabilities, and will, so far as possible, seek to ensure that none of the conditions imposed on licences will have the effect of excluding such persons access to licensed premises.

#### Reason

The power to impose conditions is limited by the provisions of the Act. The authority is under a duty to exercise its licensing functions with a view to promoting the licensing objectives

#### 4.9 Transfer of Licences

- 4.9.1. When considering an application for the transfer of a premises licence, the authority will only have regard to the exceptional circumstances of the case as set out in any objection raised by the police on the grounds that the transfer will undermine the crime prevention objective. The effect on the crime prevention objective will be considered against the background of the policies contained in this document.

#### 4.10 Variation of Licences

- 4.10.1 The Authority will not normally grant a licence where it is concerned for the safety of the public, where the intended use is likely to increase the risk of crime and disorder or risk to the safety of the public due to overcrowding. In some circumstances, occupancy conditions may be imposed.
- 4.10.2 When considering an application for variation of a licence, the authority will consider the impact of the variation in terms of the policies in this document, but will not use such an application as a means to review the licence terms and conditions already granted.

#### 4.11 Provisional Statements

- 4.11.1. An application for a provisional statement will be considered in the same way as would an application for a premises licence on the assumption that the works are completed as per the schedule of works submitted by the applicant.

## **5 COMPLAINTS / REVIEW OF LICENCES**

## 5.1 Complaints

5.1.2. The authority will investigate relevant complaints in relation to licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned. Where a Responsible Authority or an interested party (such as a local resident, or a residents' association) has made

- (a) valid representations about licensed premises or
- (b) a valid application for a licence to be reviewed

then the Authority may initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.

5.1.3. This process will not override the right of any Responsible Authority or interested party to ask that the Licensing Committee consider their request for a review of the licence, or for any licence holder to decline to participate in a mediation meeting.

### 5.2.1 Licence Reviews

The authority will view seriously applications for the review of any premises licence where it involves:

- Persistent failure to comply with licence conditions
- Actions or omissions by the licensee (or his staff) which undermine the licensing objectives, particularly where they endanger public safety, expose children to actual or potential harm or cause public nuisance.

5.2.2. They will also view particularly seriously applications for review where:

- licensed premises have been used for the sale and distribution of illegal drugs and the laundering of the proceeds of drugs crimes
- licensed premises have been used for the sale and distribution of illegal firearms
- there has been repeated breach of copyright in respect of films, music etc
- there have been proven sales of alcohol to and consumption of alcohol by children for consumption on or off licensed premises
- licensed premises have been used for prostitution or the sale of unlawful pornography
- licensed premises have been used for unlawful gaming
- licensed premises have been used as a base for organised criminal activity
- licensed premises have been used for the organisation of racist, homophobic or sexual abuse or attacks
- licensed premises have been used for the sale of smuggled tobacco or goods
- licensed premises have been used for the sale of stolen goods

- the police have frequently been called to attend to incidents of disorder at the premises

## 6 ENFORCEMENT

- 6.1. Where necessary, enforcement action will be taken by the authority in accordance with the principles of the Better Regulation Task Force for good enforcement and the authority's Licensing Enforcement Policy. This is expected to be known as Regulators Compliance Code from April 2008.
- 6.2. Applicants should be aware that other agencies may take appropriate action under their own policies or legislation, e.g. Cumbria Constabulary, Cumbria Fire and Rescue Service, and Trading Standards etc. The Police Authority have the powers under the Act to close premises in certain circumstances.
- 6.3. In particular regard will be had to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:
  - Targeting - focusing on activities that give rise to the most serious risks or where hazards are least well controlled.
  - Consistency - similar approaches in similar circumstances to achieve similar ends.
  - Transparency - helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance.
  - Proportionality - action taken should be proportional to the risk presented.
- 6.4. The authority has established protocols with the Responsible Authorities on enforcement issues to avoid duplication and to provide for the most efficient deployment of their officers in respect of inspection of licensed premises and the enforcement of licensing law.
- 6.5. Furthermore the policy of the Authority will always be a light touch inspection regime for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 6.6. The authority will for its own purposes in undertaking its licensing functions under the Act assess the risks posed by licensed premises to the promotion of the licensing objectives. The broad categories of risks are as follows:
  - High risk: nightclubs, pubs, theatres, cinemas
  - Medium risk: restaurants, clubs, off-licences (where not part of a larger store), other late night refreshment premises
  - Low risk: off licences that are part of a larger store
- 6.7. However, the authority recognises that not all premises in a particular category represent the same level of risk to the public. These categories are for guidance only. The circumstances of particular premises may place them in a

higher or lower category of risk. Applicants should be aware that officers of the authority and other agencies may attend the premises unannounced at any time. When inspecting premises, officers will be seeking to ensure that the premises have not been altered or deteriorated since the licence was granted and that all of the licence terms and conditions are being complied with.

- 6.8. The Authority recognises the Hampton principles of inspection and enforcement, which includes:
- No inspection should take place without a reason.
  - Regulators should recognise that a key element of their activity, will be to allow or even encourage economic progress and only to intervene when there is a clear case for protection.

## **7 PERMITTED TEMPORARY ACTIVITIES**

The law (Part 5 of the Act)

- 7.1. Where a person wishes to use premises for one or more of the licensable activities for a period not exceeding 96 hours a premises licence is not required. The person can simply serve a temporary event notice on the authority in duplicate notifying them of the event. The notice must be served on the authority and a copy served on the police no later than ten working days before the event is to begin.
- 7.2. The maximum number of persons allowed on the premises at the same time during the temporary event is 499.
- 7.3. If alcohol is to be supplied, all supplies must be carried out by or under the authority of the person serving the temporary event notice who need not hold a personal licence.
- 7.4. Only the police may object to the staging of a temporary event and they may do so only on the ground that allowing the premises to be used as proposed would undermine the crime prevention objective.
- 7.5. The authority must consider an objection notice and any representations which the premises user may wish to make. This is likely to be by way of a hearing unless all parties agree that a hearing is unnecessary. The authority will give notice of its decision and the reasons for the decision. If the authority upholds the objection it may serve a counter notice and the temporary event will not be able to be staged.
- 7.6. There are limitations on the number of temporary event notices which individuals can give and which can be given in relation to particular premises.
- 7.7. Whilst it is acknowledged by the authority that no conditions can be imposed in relation to permitted temporary activities, it is hoped that the organisers of such activities will voluntarily comply with the requirements of this policy in staging their

events. When considering an objection notice, the authority will take account of the provisions of this document so far as they relate to the crime prevention objective.

- 7.8. Where the limitations on a temporary event cannot be fulfilled, for example due to the large numbers attending, a premises licence will be required. The authority would expect early notice of such a major event to allow responsible authorities to discuss and agree operating schedules (See paragraph 4).

## **8 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS**

- 8.1. The authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 8.2. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.
- 8.3. Further, 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 authority officers.
- 8.4. The Licensing Committee will consist of 15 councillors. Licensing sub-committees of three councillors are expected to consider the bulk of applications where a hearing is necessary. Ward councillors will not sit on a sub-committee involving an application within their ward.
- 8.5. Every determination of a licensing application by the Licensing Committee or a Licensing Sub-Committee shall be accompanied with clear, cogent reasons for the decision.
- 8.6. It is expected that the authority's licensing officers will deal with the majority of licence applications and will decide whether representations are irrelevant, frivolous or vexatious. The person making a representation, which is considered to be frivolous or vexatious, will be given written reasons for that decision.
- 8.7. The authority will ensure that members and officers are appropriately trained to carry out their duties under the Licensing Act.
- 8.8. The table at Appendix 1 sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committees and Officers.
- 8.9. Officers, a licensing sub-committee and even the full licensing committee may decline to exercise their delegated powers in any particular case. On such occasions, officers may refer a matter to a sub-committee, the sub-committee to a full committee and the full committee to the full council.

## APPENDIX 1 – Table of Delegated functions

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	OFFICERS
Application for personal licence		If objection made	If no objection made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club premises Certificate		If a representation Made	If no representation made
Application for provisional statement		If a representation Made	If no representation made
Application to vary premises licence/club registration Certificate		If a representation Made	If no representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police representation	All other cases
Application for Interim Authorities		If a police representation	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
Determination of film classification		All cases	

A Full Committee will consist of twelve members, with a quorum of three.

A Sub-Committee will consist of three members.



## **APPENDIX 2 – Appeals Procedure**

1. Other than in the case of personal licences, an appeal has to be made to the Cumbria Magistrates Court Service, (Address). In the case of personal licences, the appeal must be made to the magistrates' court for the petty sessions area in which the licensing authority (or any part of it) which made the decision is situated.
2. An appeal has to be commenced by the giving of a notice of 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.
3. The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant licence holder, club or premises user against the representations of a responsible authority or an interested party or the objections of the chief officer of police, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal and the person who made the relevant representation or the chief officer of police will be the appellants.
4. On determining an appeal, the court may:
  - dismiss the appeal;
  - substitute for the decision appealed against any other decision which could have made by the licensing authority; or
  - remit the case to the licensing authority to dispose of it in accordance with the direction of the court.
5. The court may make such order as to costs as it thinks fit.
6. The court, on hearing any appeal, may therefore review the merits of the decision on the facts and consider points of law or address both.

### APPENDIX 3 - Guides of Best Practice

1. Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications).
2. The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6.
3. Guide to Fire Precautions in existing places of entertainment and like premises (The Stationery Office) (“The Primrose Guide”) ISBN 0 1 340907 9.
4. Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X.
5. 5 steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 15804.
6. The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2.
7. Good Practice Guide on the Control of Noise from Pubs and Clubs – The Institute of Acoustics.
9. Safer Clubbing – [www.drugs.gov.uk](http://www.drugs.gov.uk) ISBN 184027807
10. The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks – [www.portman-group.org.uk/codeofpractice/152.asp](http://www.portman-group.org.uk/codeofpractice/152.asp)
11. British Board of Film Classification – Classification Guidelines
12. HSE Guide – The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: safety of Laser products.
13. Alcohol Harm Reduction Strategy for England – [www.strategy.gov.uk](http://www.strategy.gov.uk)
14. Safety Guidance for Street Arts, Carnivals, Processions and large scale performances Independent Street Arts Network – [www.streetartsnetwork.org/pages/publications.htm](http://www.streetartsnetwork.org/pages/publications.htm)
15. National Alcohol Harm Reduction Strategy tool kit – [www.alcoholconcern.org.uk/servlets/doc/801](http://www.alcoholconcern.org.uk/servlets/doc/801)
16. Point of Sale Promotions  
Risk Assessment to Combating Violence in Licensed Premises  
Licensed Property: Noise Control  
British Beer & Pub Association - [www.beerandpub.com](http://www.beerandpub.com)

17. Fire Risk Safety Assessment – small (up to 60) and medium (60-300) places of assembly – ISBN 10:1851128204  
Large (300+) ISBN 10:1851128212  
Open air events and venues – ISBN 9781851128235

This is not intended to be an exhaustive list of reference guides but is offered for guidance and may be revised. Where an activity proposes an activity not covered by the above every effort should be made to research current best practice guidance.

## **Appendix 4 – List of Consultees**

(In additions many individuals have made personal contributions)

Area Child Protection Committee, NSPCC, 7 Chatsworth Square, Carlisle

Arts Development Officer, Tullie House, Carlisle

Bangladeshi Caterers Association, London Road, Carlisle

Bargain Booze, Weston Road, Crewe

Berwin, Leighton, Paisner, Fleet Street, London

British Beer & Pub Association, PO Box 538, Halifax

British Institute of Innkeeping, 80 Park Street. Camberley

British Transport Police, Citadel Station, Court Square, Carlisle

Campaign for Real Ale, 67 Millcroft, Carlisle

Carlisle Access, 2 Carricks Court, Low Row, Brampton

Carlisle City Council - All elected Members

Carlisle City Council – TCCE & All Directors

Carlisle City Council - Community Overview and Scrutiny

Carlisle City Council - Corporate Policy Unit, Civic Centre, Carlisle

Carlisle Civic Trust, 6 Scotby Green Steading, Scotby, Carlisle

Carlisle College, Victoria Place, Carlisle

Carlisle Diocese, St Cuthbert's Vicarage, West Walls, Carlisle

Carlisle & District Law Society, Wellrash Barn, Wigton

Carlisle & District PCT, Wavell Drive, Rosehill, Carlisle

Carlisle & Eden CDRP Drug Task Group, Civic Centre, Carlisle

Carlisle Licensed Victuallers, Stone Inn, Hayton, Brampton

Carlisle Pubwatch Management Committee

Carlisle Residents Associations

Carlisle & Rural Tenants Federation, 101 Briar Bank, Carlisle

Chinese Association, c/o King Lee Foods, Escott Works, Carlisle

Chiswick Residents Assoc. 15 Chiswick Street, Carlisle

Citizens Advice Bureau, Old Town Hall, Carlisle

Club Italiano di Cumbria, 13 Abbottsford Drive, Carlisle

Connexions Cumbria, 28 Lowther Street, Carlisle

Cumberland News – Article on review of Policy  
Cumbria Ambulance Service, Infirmary Street, Carlisle  
Cumbria Association of Local Councils, Penrith Library, Penrith  
Cumbria Chamber of Commerce, Enterprise Centre, Carlisle  
Cumbria Constabulary, Area Commander, Portland Place, Carlisle  
Cumbria Constabulary, Chief Constable, Carleton Hall, Penrith  
Cumbria Constabulary, Legal Services, Carleton Hall, Penrith  
Cumbria County Council, Community Safety Officer, The Courts, Carlisle  
Cumbria County Council, Education Services, 5 Portland Square, Carlisle  
Cumbria County Council, Head of Cultural Strategy, The Castle, Carlisle  
Cumbria County Council, Legal Services Unit, The Courts, Carlisle  
Cumbria County Council, Local Education Authority, Portland Square, Carlisle  
Cumbria County Council, Neighbourhood Development Officer, The Courts, Carlisle  
Cumbria County Council, Trading Standards, Earl Street, Carlisle  
Cumbria Drugs Action Team, 1 Fisher Street, Carlisle  
Cumbria Fire & Rescue Service, Fire Headquarters, Station Road, Cockermouth  
Cumbria Food Liaison Group, Allerdale House, Workington  
Cumbria Health & Safety Liaison Group, Catherine Street, Whitehaven  
Cumbria Housing Group, Carlisle Housing Assoc. Botchergate, Carlisle  
Cumbria Pollution Liaison Group, Community Services, Civic Centre, Carlisle  
Cumbria Tourism, Windermere Road, Staveley, Kendal

Dalston Parish Council, Unthank, Dalston  
Dickinson Dees Law firm, St Ann's Wharf, Newcastle  
Disability Rights Commission

Equity, 12 Blackfriars Street, Salford  
European Entertainment, The Park, Oaksey, Malmesbury, Wilts.  
Evening and Late Night Economy Task Group, Civic Centre, Carlisle

Gala Group, Newcastle House, Castle Boulevard, Nottingham

Hammonds Solicitors, 148 Edmund Street, Birmingham  
Hartleys (Ulverston) Ltd, Ulverston, Cumbria

Health & Safety Executive, 2 Victoria Place, Carlisle  
Honeycombe Leisure, Deby House, Lytham Road, Fulwood

Jazz Services, 132 Southwark Street, London  
Joelson, Wilson, Solicitors, 30 Portland Place, London  
Kendal & South Lakeland Licensed Victuallers Assoc.  
Ladbrokes Betting & Gaming Ltd, Imperial House, Raynor's Lane, Harrow  
Leisure Link, 3 The Maltings, Wetmore Road, Burton on Trent  
Librarian, Brampton Library  
Librarian, Carlisle Library  
Librarian, Dalston Library, Carlisle  
Librarian, Denton Holme Public Library, Carlisle  
Librarian, Harraby Library, Carlisle  
Librarian, Library Services For Schools, Botchergate, Carlisle  
Librarian, Library Services, arroyo block, The Castle, Carlisle  
Librarian, Longtown Library, Longtown  
Librarian, Morton Public Library, Carlisle

MHLD Trust, Carleton Clinic, Cumwhinton Drive, Carlisle  
Musicians Union, 40 Canal Street, Manchester

National Society for the Prevention of Cruelty to Children, Chatsworth Sq, Carlisle  
North Cumbria Acute Hospitals NHS Trust, Cumberland Infirmary, Carlisle

Polish Association, 24 Wentworth Drive, Carlisle  
Popleston Allen, Solicitors, The Lacemarket, Nottingham  
Punch Taverns, Jubilee House, Burton on Trent

Scottish & Newcastle Retail, Lakeside House, The Lakes, Northampton  
Showman's Guild of Great Britain, 11 St Mary's Place, Bury  
Stanwix Rural Parish Council, Brampton Road, Carlisle

Thwaites Inns, PO Box 50, Star Brewery, Blackburn

Ukrainian Association, 32 Briery Acres, Workington

University Hospitals of Morecambe Bay NHS Trust, Ashton Rd, Lancaster

University of Northumbria, Castle Street, Carlisle

Yates Group Limited, Peter Yates House, Manchester Road, Bolton

Youth Inclusion Officer, E&CD, Civic Centre, Carlisle

## **Appendix 5 –**

### **Links between the licensing policy and other Council strategies and policies:**

#### **1) Carlisle City Council Corporate Improvement Plan 2007-2010**

To ensure a high quality of life for all in both our urban and rural communities.

- Our local communities are places where people choose to live and where they feel safe
- Everyone has the opportunity to reach their full potential through learning
- Our skills match those required by business so the local economy can grow
- Local people and those wishing to move to Carlisle, have a choice of decent affordable housing
- Our local environments, including the place where people live, provide high quality, public spaces that are welcoming and that people enjoy and take pride in
- Our residents have access to high quality, responsive Council services that provide value for money
- Local people are involved in, and can influence decisions about the places where they live

#### **2) Crime and Disorder Reduction Strategy**

#### **3) Race Equality Scheme**

#### **4) Local Transport Plan**

#### **5) Community Strategy – City Vision**

#### **6) A Vision for the Future – Community strategy for Carlisle and Eden**

#### **7) Tourism Priority Plan**

#### **8) Economic Development strategy**



## Appendix 6 – Application Addresses

### Applications should be sent to the Licensing Manager

**Copies should be sent to the undermentioned responsible authorities, clearly marking the envelope ‘Licensing Act application’**

Licensing Manager  
Environmental Protection Services  
Carlisle City Council  
Civic Centre  
Carlisle  
CA3 8QG

Tel: 01228 817523

Email: [licensing@carlisle.gov.uk](mailto:licensing@carlisle.gov.uk)

The Divisional Officer  
Cumbria Fire Service  
C Division Headquarters  
11/13 Brunswick Street  
Carlisle  
CA1 1PB

Tel: 01228 521215

Email: [cdivcarlisle.fire@cumbriacc.gov.uk](mailto:cdivcarlisle.fire@cumbriacc.gov.uk)

Head of Business Unit  
Environmental Protection Services  
Carlisle City Council  
Civic Centre  
Carlisle  
CA3 8QG

Tel: 01228 817326

Email: [eps@carlisle.gov.uk](mailto:eps@carlisle.gov.uk)

Senior Management Secretary  
Safeguarding and Review  
Social Services  
New Oxford Street  
Workington  
CA14 2LW

Tel: 01900 325365

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Head of Business Unit  
Planning Services  
Carlisle City Council  
Civic Centre  
Carlisle  
CA3 8QG

Tel: 01228 817579

Email: [dc@carlisle.gov.uk](mailto:dc@carlisle.gov.uk)

Trading Standards  
Cumbria County Council  
13 Earl Street  
Carlisle  
CA1 1DP

Tel: 01228 607447

Health and Safety Executive  
2 Victoria Place  
Carlisle  
CA1 1ER

Tel: 01228 539321  
(where the HSE is the enforcing  
authority for health & safety matters in  
the premises)

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The Licensing Officer  
Cumbria Constabulary  
Citadel Chambers  
Carlisle  
CA3 8SG

Tel: 01228 529191

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Vessel  
In relation to an application for a  
vessel, contact should be made with  
the Licensing Office.

## Other Useful Addresses

Arts Council England  
14 Great Peter Street  
London  
SW1P 3NQ

Tel 0845 300 6200  
Email: [enquiries@artscouncil.org.uk](mailto:enquiries@artscouncil.org.uk)  
Web: [www.artscouncil.org.uk](http://www.artscouncil.org.uk)

British Institute of Innkeeping  
Wessex House  
80 Park Street  
Camberley  
Surrey GU15 3PT

Tel: 01276 684 449  
Email: [reception@bii.org](mailto:reception@bii.org)  
Web: [www.bii.org](http://www.bii.org)

Association of Licensed Multiple  
Retailers (ALMR)  
3<sup>rd</sup> Floor International House  
Ealing  
London  
W5 5DB

Tel: 0208 579 2080  
Web: [www.almr.org.uk](http://www.almr.org.uk)  
Email: [info@almr.org.uk](mailto:info@almr.org.uk)

Disability Rights Commission  
DCR Helpline  
Freepost MID01264  
Stratford Upon Avon  
CV37 9BR

Tel: 08457 622 633  
Web: [www.drc-gb.org](http://www.drc-gb.org)

British Beer and Pub Association  
Market Towers  
1 Nine Elms Lane  
London  
SW8 5NQ

Tel: 0207 627 9191  
Email: [web@beerandpub.com](mailto:web@beerandpub.com)  
Web: [www.beerandpub.com](http://www.beerandpub.com)

Education Welfare  
Attendance & Exclusion Manager  
5 Portland Square  
Carlisle  
CA1 1PU

Tel: 01228 606789

British Board of Film Classification  
3 Soho Square  
London  
W1D 3HD

Tel: 020 7440 0299  
Email: [webmaster@bbfc.co.uk](mailto:webmaster@bbfc.co.uk)  
Web: [www.bbfc.co.uk](http://www.bbfc.co.uk)

Equity  
Guild house  
Upper Martins Lane  
London  
WC2H 9EG

Tel: 0207 379 6000  
Email: [info@equity.org.uk](mailto:info@equity.org.uk)  
Web: [www.equity.org.uk](http://www.equity.org.uk)

Jazz Services Limited  
1<sup>st</sup> Floor  
132 Southwark Street  
London  
SE1 0SW

Tel: 020 79289089  
Email: [admin@jazzservices.org.uk](mailto:admin@jazzservices.org.uk)  
Web: [www.jazzservices.org.uk](http://www.jazzservices.org.uk)

Musicians Union  
40 Canal Street  
Manchester  
M1 3WD

Tel: 0161 2361764  
Email: [northwest@musiciansunion.org.uk](mailto:northwest@musiciansunion.org.uk)  
Web: [www.musiciansunion.org.uk](http://www.musiciansunion.org.uk)

North Cumbria Magistrates Court  
Service  
Rickergate  
Carlisle  
CA3 8QH

Tel: 01228 518800