

# Report to Licensing Committee

Agenda  
Item:

**A.1**

Meeting Date: 18<sup>th</sup> November 2020  
 Portfolio: Finance, Governance and Resources  
 Key Decision: Yes  
 Within Policy and  
 Budget Framework YES  
 Public / Private Public

Title: END OF CONSULTATION DRAFT STATEMENT OF LICENSING  
 POLICY 2021/2026  
 Report of: Director of Governance  
 Report Number: GD 56/20

## Purpose / Summary:

Under the Licensing Act 2003, one of the duties of the Local Authority is to consult and publish a statement of its Licensing Policy every 5 years. The next statement is required to be published by 7<sup>th</sup> January 2021. Due to the current circumstances regarding the Covid Pandemic, the Committee agreed to consult on retaining the existing policy in the short term. Consultation was undertaken from 10<sup>th</sup> September to 22<sup>nd</sup> October 2020.

## Recommendations:

That the Committee recommend the Statement of Licensing Policy 2021/2026 to be approved by Council on 5<sup>th</sup> January 2021 in order to be published on 7<sup>th</sup> January 2021.

## Tracking

Licensing Committee	<b>9<sup>th</sup> September 2020 &amp; 18 November 2020</b>
Overview and Scrutiny:	<b>Business and Transformation - for information only</b>
Council:	<b>5<sup>th</sup> January 2021</b>

## 1. BACKGROUND

- 1.1 There is a statutory requirement under the Licensing Act 2003 for the Council to review and re-publish its Statement of Licensing Policy every five years. The current Statement of Licensing Policy will expire on 6<sup>th</sup> January 2021.
- 1.2 Due to Covid-19 and work pressures associated with this, a full effective review of the Policy has been hindered with the current situation. In order to comply with statutory requirements the Licensing Committee at its meeting 9<sup>th</sup> September agreed to consult on retaining the existing policy (with amendments for legislative changes) in the short term and a more detailed review will be undertaken, if necessary, within the next 5 year cycle.
- 1.3 This proposal was in line with advice given by the Institute of Licensing to Licensing Authorities.
- 1.4 There have been some legislative changes and since the publication of the policy in 2016 and these have been added, including:
  - Privacy and Personal Data (p.8)
  - Immigration Act 2016 (p.9)
  - Personal Licence – Suspension and Revocation (p.13)

## 2 CONSULTATION

- 2.1 A 6 week public consultation was undertaken on the draft policy from 10<sup>th</sup> September – 22<sup>nd</sup> October 2020.
- 2.2 The consultation involved existing licence holders, the issuing of press releases, details on the Council's website and was also extensively publicised on the Council's Social Media throughout the consultation period.
- 2.3 No comments were received during the consultation.
- 2.4 No changes have been therefore made to the draft statement (**Appendix 1**).

## 3 RECOMMENDATIONS

- 3.1 That the Committee recommend the Statement of Licensing Policy 2021/2026 to be approved by Council on 5<sup>th</sup> January 2021 in order to be published on 7<sup>th</sup> January 2021.

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**Appendices  
attached to report:**

1. Draft Statement of Licensing Policy 2021-2026

**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:**

- None

**CORPORATE IMPLICATIONS/RISKS:**

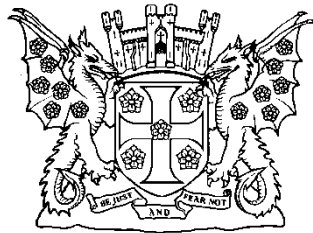
**LEGAL** – Contained within the report. The statement of Licensing Policy is part of the Council's policy framework. Consequently, the draft is open to consultation, as detailed within the report, before being reconsidered and recommended to Council.

**FINANCE** – The financial implications of adopting this policy can be accommodated from within existing base budgets.

**EQUALITY** – None

**INFORMATION GOVERNANCE** – There are no Information Governance implications with this report

# **CARLISLE CITY COUNCIL**



## **Licensing Act 2003**

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### **Statement of Licensing Policy**

**For the period 2021-2026**

## English

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## 1. Introduction

- 1.1 Welcome to Carlisle City Council's Statement of Licensing Policy. It will apply for a maximum of five years. The policy will be kept under review and may be revised in light of experience or revisions to guidance issued under section 182 of the Licensing Act 2003.
- 1.2 Carlisle is the largest city in England by area with a population of over 100,000. The city is at the northern extreme of the North West of England only 10 miles from the border with Scotland and is the urban capital of the county of Cumbria.
- 1.3 Carlisle dominates a huge area of geography with its nearest city neighbours being Newcastle 58 miles to the East, Glasgow 96 miles to the North, Lancaster 68 miles to the South with the Irish Sea to the West. Carlisle is easy to get to and the perfect Centre to explore further afield, with the Lake District right on its doorstep.
- 1.4 Carlisle has a thriving daytime, evening and night-time economy and is the base for many culture and leisure activities. There are approximately 2,500 businesses and people associated with the Licensing Act provisions. Licences include supermarkets, restaurants, public houses, off-licences, nightclubs and takeaway outlets. These are based in venues ranging from village halls and small public houses in the rural area to community centres and nightspots in the city centre.
- 1.5 The Licensing Act 2003 requires Carlisle City Council as the Licensing Authority, to prepare and publish a statement of Licensing Policy. The policy sets out principles that the Council generally applies to promote the licensing objectives when making decisions on applications made under this act. An extensive consultation exercise was held before the policy was published.
- 1.6 The Council is committed to developing Carlisle's regional status and appreciates the importance leisure businesses have for the local economy. The Council's policies and priorities aim to reflect the needs and aspirations of existing and new local businesses. The thriving food, drink and entertainment businesses in the area are an important part of the local economy and this policy is critical to their continuing success and for attracting further investment and opportunity to the area. Balanced against this are the Council's legal duties with regard to public safety, nuisance and commitment with its partners to reducing crime and fear of crime.
- 1.7 It is also important to protect and maintain our environment so that residents, visitors and other businesses can enjoy the opportunities for living, visiting and working within the area safely and free from nuisance. The Council

values its younger people and is active in ensuring they are offered a wide range of opportunities and experiences to develop while seeking to protect them from harm.

- 1.8 Guidance such as the Licensing Policy aims to advise businesses and individuals on how they can develop, as well as clarifying the national licensing legislation.
- 1.9 If you require further information on the Licensing Policy please contact our Licensing Section.

## **2 Purpose of Policy**

2.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of this licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act. This is the fourth review our Licensing Policy and following a public consultation Carlisle City Council resolved to approve the revised policy on 5 January 2021 to be effective from 7 January 2021 for the next five years.

2.2 This policy statement has amongst other things, four main purposes:

1. To provide Members of the Licensing Committee with a decision making framework. The policy will be taken into account at any hearing following representations.
2. To inform applicants of the parameters within which the Authority are able to make licensing decisions and allow them to take this into account when making applications.
3. To provide guidance to local residents and businesses of the boundaries within which the Licensing Authority will make licensing decisions. This will assist those parties when making representations in relation to various applications.
4. To support the Licensing Authority if it has to demonstrate in a court of law how it arrived at its licensing decisions.

2.3 The policy will be kept under review and the Licensing Authority will if necessary, after appropriate consultations, make such revisions to it as may be considered appropriate. Any amendments will be incorporated in the licensing statement after each review.

## **3. Scope of this policy**

3.1 The Council as the Licensing Authority is responsible for authorising licensable activities, the issue of personal licenses and other matters set out in the Act within this district. This policy relates to all those licensable activities identified as falling within the provisions of the Act, namely:



- Retail sale of alcohol
- Supply of alcohol by or on behalf of club members
- Provision of regulated entertainment under certain circumstances i.e. entertainment (unless exempted by the Act) which is provided for the public, club members or for consideration with a view to profit.
- Supply of late night refreshment being supply of hot food and/or hot drink from any premises (subject to any statutory exemption) including food stalls, between 23:00 hours and 05:00 hours.

3.2 In addition to the above the Act also makes the provision of licensing individuals to sell alcohol (personal licences); the permitting of certain licensable activities on a temporary basis (temporary event notice); and provisional statements.

3.3 A minority of consumers will behave badly and unlawfully once away from premises, and it would be unreasonable to expect licence holders to have control over these individual people.

3.4 The Licensing Authority recognises that the Act is not a cure-all for all anti-social behaviour. There is a breadth of other strategies for addressing these problems, for example:

- Planning controls
- Powers of local authorities to designate parts of the local authority areas as places where alcohol may not be consumed publicly
- Powers of Police and Local Authorities under nuisance and anti-social behaviour legislation
- 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 selling alcohol to people who are drunk
- Confiscation of alcohol from adults and children in areas protected by Public Space Protection Orders and dispersal powers
- 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 excessive noise emanating from the premises.
- The power of the Police, other responsible authorities or other person to seek a review of the licence or certificate
- Promotion of positive activities.

#### **4. General matters**

4.1 All references to the “the Act” in this document shall be deemed to mean “Licensing Act 2003” unless otherwise stipulated.

- 4.2 Carlisle City Council is the Licensing Authority for this district under the terms of the Act who are responsible for determining all applications for licensable activities, as defined in Section 1 of the Act.
- 4.3 The Licensing Authority recognises that it works with services who act as 'Responsible Authorities' i.e. Environmental Health, Planning, Police, and the County Council's Director of Public Health. These Responsible Authorities are able to make representations on any licence application submitted under the terms of the Act. The Licensing Authority will treat these submissions with the same consideration as any other representations having regard to the terms of the Section 182 Statutory Guidance . Cumbria County Council's Safeguarding and Review team is the responsible authority in relating to the protection of children from harm.
- 4.4 The Act requires the Licensing Authority to keep a register containing a record of each premises licence, club premises certificate, personal licence issued and temporary event notice received and in doing so this will have regard to the information set out in Schedule 3 of the Act.
- 4.5 To comply with this requirement our register may be accessed on line by using the following link  
[http://www.carlisle.gov.uk/business/licensing/public\\_registers.aspx](http://www.carlisle.gov.uk/business/licensing/public_registers.aspx)

### **Disclaimer**

- 4.6 Advice and guidance contained in the Statement of Licensing Policy is intended only to assist readers and should not be interpreted as legal advice or as constituent of Carlisle City Council's Statement of Licensing Policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Licensing Act 2003 or of the Guidance or Regulations issued under the Act.

### **Consultation**

- 4.7 There are a number of groups which have a stake in the leisure industry, including providers, customers, residents and enforcers, all of which have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 4.8 In developing this policy statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Responsible Authorities), the views of existing license holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

### **Links to other Strategies**

- 4.9 In preparing this Statement of Licensing Policy, the Licensing Authority has had regard to and consulted with those involved in Carlisle City Council's local strategies on crime prevention, planning transport, culture, tourism,

community, eGovernment and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amending of these strategies will be considered for their impact upon this Statement of Licensing Policy.

- 4.10 Where appropriate, the licensing authority will co-ordinate and liaise with the planning authority and will provide information regarding licensed premises in the area, including evidenced alcohol related crime and disorder information where available, to enable Planning Committee to have regard to such matters when making decisions.

### **Planning and Building Control**

- 4.11 The Licensing Authority will ensure that planning, building control and licensing regimes will be separated to avoid duplication and inefficiency.
- 4.12 The licensing authority would normally expect that applications for premises licenses for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, the licensing authority acknowledges that applications for premises licences or club premises certificates may be made prior to any relevant planning permission having being sought or granted by the planning authority. Applicants would be expected to ensure that all relevant permissions are obtained.
- 4.13 The licensing authority recognises that licensing applications should not be a re-run of planning applications nor should they cut across decisions taken by planning committee or following appeals against decisions taken by the Council's planning committee. The licensing authority's licensing committee will not be bound by decisions made by the Council's planning committee and vice versa.
- 4.14 Where the granting of any variation to a premises licence or club premises certificate involves a material alteration to a premises, the licensing authority would expect the applicant to apply for relevant planning permission or building control consent where appropriate.
- 4.15 The Licensing Authority recognises that when, as a condition of planning permission a terminal hour has been set for the use of the premises for commercial purposes, and where these hours are different from the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

### **Special Events in the Open Air or in Temporary Structures**

- 4.16 The promotion and the organisation of live musical and similar entertainment in the open air or in temporary structures like marquees etc. can provide opportunities for community involvement, civic pride and can attract visitors to the district.

- 4.17 However, the success of such events by the way of contribution to the Council's cultural and tourist strategies depends upon the quality, levels of safety and consideration for the rights of people who work in the vicinity and the standard of provision of facilities for those coming to enjoy the event.
- 4.18 In recognition of the special factors that are relevant, particularly with respect to major open air events such as pop festivals or other large events , the Council has established a multi-agency forum to assist organisers in co-ordinating such events. This includes council departments who have an interest in or legislative role relevant to such events, together with representatives of the various emergency services.
- 4.19 Members of the forum are notified about all proposals to hold such events and where necessary special meetings will be organised in order to consider any communication with organisers.
- 4.20 A useful document which organisers are recommended to obtain is 'The Event Safety Guide' (known as the purple guide), published by the Health and Safety Executive. This is currently being revised and organisers are advised to check online for the latest version ([www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk))
- 4.21 Guidance on the planning of such events is available to organisers but it is important that substantial notice is given so that proper preparations and precautions can be put in place for the event. This also applies if the event is proposed under a Temporary Event Notice.

### **Community Applicants**

- 4.22 Whilst this policy is aimed at all licensable activities under the Act it should be noted that the Council sees a distinction between large or permanent activities, such as those proposed by commercial operations and small or temporary activities such as those which might be proposed by cultural or community groups.
- 4.23 Where events are proposed by cultural or community groups, it is recognised that those groups may not have the same skill or the expertise or access to professional advice. Such groups may seek assistance and guidance from the Council by contacting the Licensing Section.
- 4.24 Whatever the nature of the applicant and activity proposed, the overriding matter is that the Council will consider the individual merits of the application and act as to promote the licensing objectives

### **Privacy and Personal Data**

- 4.25 In line with General Data Protection Regulation and Data Protection Act 2018, the Council and are Data Controllers of the information provided as part of licence applications. The Council have a statutory duty to process and maintain licences and permissions and conduct enforcement activities in accordance with the Licensing Act 2003 as part of a legal obligation to meet

the statutory requirements for the licensing of the sale of alcohol, regulated entertainment and late-night refreshment.

- 4.26 The Council may share the following information with the third parties listed below: details of the licensed premises, licence status, the names, addresses and company numbers of persons and companies named on a licence. This may be shared with services in the Council, for example, Development Control, Environmental Health and Community Safety.
- 4.27 In addition we will share with external third party organisations including Government departments, Cumbria Police, Information Commissioners Office (for National Fraud Initiative), the Health and Safety Executive, Cumbria Fire and Rescue Service to make further enquiries regarding your application under the Licensing Act 2003 or where required by law for the detection and prevention of crime.
- 4.28 The personal information provided as part of an application for a premises licence, club premises certificate or personal licence will be held for a period of 2 years following the surrender, lapsing or expiry of the licence/permit. The personal information held for Temporary Event Notices will be held for a period of 2 calendar years following the event. Details of all transactions are recorded permanently as an entry on the licensing register.
- 4.29 The Council's Regulatory Services privacy notice, which includes details of the authority's Data Protection Officer and your information rights is available at:

<https://www.carlisle.gov.uk/Privacy-Statement/Regulatory-Services-PrivacyStatement>

#### Immigration Act 2016

- 4.30 The Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.
- 4.31 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 4.32 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
  - Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
  - Immigration offences, including civil penalties, are ‘relevant offences’ as defined by the 2003 Act;
- 4.33 The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications. The Home Office (Immigration Enforcement) is permitted to make appropriate representations and objections to the grant of a licence.
- 4.34 The Licensing Authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.
- 4.35 The Licensing Authority will also work in partnership with the Home Office (Immigration Enforcement) and Cumbria Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

## Licensing Objectives

- 5.1 The Act sets out four licensing objectives which the Licensing Authority has a duty to promote when carrying out its licensing function, namely:
- The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
- 5.2 These objectives are the only factors that can be taken into account in determining an application and any conditions attached to the licence must be necessary to promote the licensing objectives. If there are no relevant representations, then an application must be granted and subject only to mandatory conditions and conditions consistent with the applicants operating schedule. Any conditions offered by the applicant within their operating schedule will become conditions on the licence.
- 5.3 Where it is appropriate to promote these licensing objectives, the licensing authority and responsible authorities will expect the applicant to offer controls by way of conditions. Examples of possible conditions are detailed below.

#### 5.4 Prevention of Crime and Disorder:

- The use of toughened glass/polycarbonate or other plastic/non glass bottles/receptacles
- Measures to prevent open bottles or other drinks containers being carried from premises
- Restriction of drinks promotions and responsible retailing
- Means of providing free water
- Marketing promotions do not encourage excessive consumption and should be socially responsible
- Measures to prevent binge drinking
- Participation in pub/club watch schemes and attendance at meetings
- Use of appropriate numbers of security personal and stewards ensuring effective controls at all times. Training staff in crime prevention measures
- Search procedures
- Use of CCTV inside and outside premises, ensuring digital systems comply with Home Office minimum requirements
- Adequate lighting
- Design premises to minimise the opportunity for crime and disorder
- Quality supervision and surveillance in premises
- Regular checks by staff of all public areas including toilets
- Assessment of customer profile ensuring the effective management of customers both inside premises and in outside smoking/external seating areas
- Anti-discriminatory policies and practice covering e.g. homophobia and racism
- Provision of a means of communication to other venues and the Police

#### 5.5 Public Safety:

- Promotion of responsible drinking
- Awareness of drink spiking
- Zero tolerance drug policies including the appropriate use of searching/amnesty boxes to combat drug crime
- Assessment of the safe capacity for the venue and adequate monitoring and control measures to avoid overcrowding
- Regular removal of all glasses and bottles
- Specific precautions for the use of special affects
- Adequate provision for ventilation/temperature control
- Assessment, monitoring and management of noise exposure
- Assessment for crowd dynamics
- Safety of gas and electrical services
- Fire safety and emergency lighting
- Easy accessible free drinking water

#### 5.6 Prevention of Public Nuisance:

- Assessment of the likelihood of nuisance affecting local communities through an assessment of the location of premises, character of the surrounding area and the proximity to residential and other sensitive premises. Nuisance could be from noise, odour or light
- Latest admission times
- Measures for the limitation of noise emissions from the premises. These may include as appropriate noise limitation devices, sound insulation, whether windows are to be opened, the installation of acoustic lobbies and double glazing
- Measures to dealing with queuing, where necessary
- Use and management of outdoor areas
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated cab firms, notices in the premises requesting customers to respect neighbours
- Winding down periods particularly in public houses and nightclubs etc.
- Disposal of waste, particularly glass
- Use and maintenance of plant, including air extraction and ventilation systems
- Litter collection in vicinity
- Consideration of an adequate traffic management plan
- Noise from deliveries/collections
- Odour and light nuisance
- Measures to supervise customers use of beer gardens, smoking and external seating areas

#### 5.7 Protection of Children from Harm:

- Limitation of access dependant on nature of activities
- Use of British Board of Film Classification for film exhibition
- Robust proof of age provisions to include preventions of fewer than 18s entering the premises where appropriate and the requirement for anyone looking under 18 to provide proof of age in the form of a photo driving licence, passport or accredited photo ID card bearing the PASS hologram. PASS is the UK's national guarantee scheme for proof-of-age cards.
- Adoption of the Challenge 21/25 policy
- Adequate staff training on age restricted sales
- Adequate warning signage
- Measures to avoid proxy sales
- Control measures to protect child performances
- Records of refusals (refusal log)
- Suitable design and layout of alcohol display

5.8 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as a cure-all for solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with its neighbouring



authorities, the responsible Authorities, the Health Authority , local businesses and local people towards the promotion of objectives as outlined.

### **Designated Premises Supervisors (DPS)**

- 5.9 The main purpose of the ‘designated premises supervisor’ is to ensure that there is always one specified individual who can be readily identified for the premises where a premises licence is in force. The Licensing Authority will normally expect the DPS to have an active role in the day to day operation of the licensed premises, in particular the sale and supply of alcohol. A DPS does not have to be on site all the time, but should authorise individuals to supervise the day to day management of the premises in his absence.
- 5.10 A DPS should have sufficient experience and knowledge appropriate for the operation under their control. A DPS should be able to control the activities on site and respond quickly and efficiently to problems.
- 5.11 A DPS should be able to demonstrate that they:
- Have sufficient knowledge and experience appropriate to the premises that they intend to control
  - Are able to respond to problems quickly and to meet with responsible authorities, local residents and ensure adequate direct management of individual premises in a timely manner.
- 5.12 Following a Police representation the Licensing Authority may refuse an application or remove a DPS where:
- A problem premises exists and the DPS is not capable of fulfilling the duties and expectations of a DPS
  - A proposed DPS cannot demonstrate their suitability for the licensed premises

## **6. Personal licences**

- 6.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a Personal Licence. The Act does not require the presence of Personal Licence holder at all material times but if any sales are made when a Personal Licence holder is not present, then they must have been authorised by somebody who holds a Personal Licence. Regardless of whether a Personal Licence holder is present or not he will not be able to escape responsibility for the action of those he authorises to make such sales.
- 6.2 The Council recommends that authorisations for the sale of alcohol be made in writing to ensure that those authorised are clear on their legal responsibilities. Any premises which alcohol is sold or supplied may employ one or more Personal Licence holders. This paragraph should be read in conjunction with paragraphs 5.9 to 5.12 above, which state the role of the Designated Premises Supervisor.

- 6.3 The Council recognises it has no discretion regarding the granting of Personal Licences where:
- The applicant is 18 years or over;
  - The applicant is permitted to work in the UK
  - Possesses a licensing qualification;
  - Has not had a licence forfeited in the last five years; and
  - Has not been convicted of a relevant offence, a foreign offence or has been required to pay an immigration penalty after 6<sup>th</sup> April 2017.
- 6.4 An application for a Personal Licence to sell alcohol must be made on the form specified in government guidance or regulations. The application form must be accompanied by the requisite fee. The applicant should also be able to produce evidence of the relevant qualifications.
- 6.5 From 1 April 2015 it is no longer necessary to renew a Personal Licence. Section 115 of the Licensing Act 2003 has been amended by section 69 of the Deregulation Act 2015, removing the requirement to renew personal licences. All new licences issued after this date will be issued for an 'indefinite period'
- 6.6 From April 2017 the applicant must provide evidence of right to work in the UK. Where an applicant's immigration permission to live and work in the UK is time limited, a licence may still be granted, but will become invalid when the immigration permission expires.
- 6.7 Applicants should produce a basic disclosure issued by the Disclosure and Barring Service along with the application form. The certificate must be recent (less than 30 days old). Applicants are also expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or similar offence.
- 6.8 The Police or Home Office (Immigration Enforcement) 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 or has received a civil penalty after April 2017 and the police or Home Office consider that the grant of a licence would undermine the crime prevention objective. If an objection is lodged a hearing must be held.
- 6.9 The Council will, at such a hearing, consider carefully whether the grant of the licence will compromise the promotion of the crime prevention objective. It will consider the seriousness and relevance of the convictions(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Council will normally refuse the application unless there are exceptional and compelling circumstances which justify granting it.

### **Suspension and revocation**

- 6.10 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a Licensing Authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.
- 6.11 When a Licensing Authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Prior to 6 April 2017 only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions.
- 6.12 The process which must be undertaken by the Licensing Authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee.
- 6.13 The Licensing Authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the Licensing Authority may not take action until the time limit for making an appeal has expired.
- 6.14 If a Licensing Authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision
- 6.15 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 6.16 The Licensing Authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the Licensing Authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the Licensing Authority from deciding to take action itself. Licensing Authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision regarding the licence.

- 6.17 If the Licensing Authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the Licensing Authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.
- 6.18 Any representations made by the chief officer of police must be taken into account by the Licensing Authority in deciding whether to suspend or revoke the licence.
- 6.19 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the Licensing Authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the Licensing Authority area, because it is the local chief officer who must provide representations if the Licensing Authority proposes not to revoke the licence.
- 6.20 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the Licensing Authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 6.21 In deciding whether to suspend or revoke a personal licence, the Licensing Authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
    - The duty to promote the licensing objectives
    - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
    - The seriousness of the relevant offence
    - The sentence or penalty imposed on the licence holder for the relevant offence
    - Any representations made by the Police or Home Office Immigration Enforcement
    - Any representations made by the holder of the licence
    - Any evidence as to the previous character of the holder of the licence.
- 6.22 The Licensing Authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the Licensing Authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.

- 6.23 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the Licensing Authority to be able to carry out their functions.
- 6.24 The Licensing Authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

## **7. Applications for Premises Licence**

- 7.1 When considering applications, the Licensing Authority will have regard to:
- The Licensing Act and licensing objectives
  - Government guidance issued under Section 182 of the Licensing Act 2003
  - Any supporting regulations
  - This statement of Licensing Policy
- 7.2 This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application to seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 7.3 The Licensing Authority recognises that, in some circumstances, longer licensing hours for the sale of alcohol may help to avoid concentrations of customers leaving premises simultaneously and reduce the potential for disorder. It also recognises that overly restrictive hours may inhibit the development of the night time economies that are important for investment, employment and tourism.
- 7.4 When determining applications by the Licensing committee, the Licensing Authority will seek to balance those factors against its duty to promote the four licensing objectives and the rights of residents to peace and quiet.
- 7.5 This policy is not intended to duplicate existing legislation and other regulatory regimes that place duties on employers and operators e.g. Health and Safety at Work etc. Act 1974, Environmental Protection Act 1990, Equality Act 2010, Building Regulations and the Regulatory Reform (Fire Safety) Order 2005. The Licensing Authority will therefore only impose conditions which are appropriate in promoting licensing objectives.
- 7.6 When one part of Carlisle City Council seeks a premises licence from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the committee. Those making representations, genuinely aggrieved by a positive decision in favour of a local authority application by the Licensing

Authority are entitled to appeal the Magistrates' Court and thereby receive an independent review of any decision made.

- 7.7 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decision of the Licensing Authority.
- 7.8 It should be noted that incomplete applications will not be accepted but returned with an explanation of why it is incomplete.
- 7.9 The Licensing Authority welcomes applications made via Carlisle City Council's electronic application facility.

### **Community Halls**

- 7.10 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 amends the Act to allow management committees of community premises to make an application for a premises licence or to vary an existing premises licence which includes an application to remove the requirement of a designated premises supervisor and the authorisation of the sale of alcohol by a personal licence holder.

### **New and Varied Premises Licences/Club Premises Certificates**

- 7.11 Where no premises licence or club premises certificate exists in respect of a premises, an application for a new premises licence or club premises certificate must be made to enable the carrying out of licensable activities.
- 7.12 An application to vary an existing premises licence or club premises certificate should be made where the proposed variation is in respect of changes to the types of licensable activities that are to be undertaken and/or the hours that those activities are to take place, or where structural changes are made to the premises.
- 7.13 Where the proposed variation to a premises licence or club premises certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the existing premises licence or club premises certificate and the plan of which it relates.
- 7.14 Where a premises licence holder or club premises wishes to amend a premises licence or club premises certificate, the licensing authority will allow for an application to vary to be made rather than requiring an application for a new premises licence or certificate. The process the applicant will undertake will depend on the nature of the variation and its potential impact on the licensing objectives. The variation process will include:
- Change of name and address of a person named in the licence;
  - Variation of the licence to specify a new individual as designated premises supervisor;
  - Request to be removed as designated premises supervisor;

- Request of community premises to display the mandatory condition concerning the supervision of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence;
- An application for minor variation of a premises licence or club premises certificate.

7.15 In addition, when completing section 3 of the application, it is important applicants ensure they provide sufficient time for the alterations to be carried out when stating the date upon which the variation is to take effect. This is to ensure that when the premises licence or club premises certificate comes into force, the plan to which it relates reflects accurately the layout of the building.

7.16 If the actual date when the alterations have been completed differs from that requested, applicants must inform the licensing authority so that the premises licence or club premises certificate can be issued correctly. Failure to do so may result in an offence being committed under Section 136 of the Licensing Act 2003 of carrying on a licensable activity otherwise than under and in accordance with an authorisation.

## Minor Variations

7.17 In August 2009, the Government introduced a streamlined process for applicants to make minor variations to their premises licences and club premises certificates where the change is considered to have 'no adverse impact' on the promotion of any of the four licensing objectives.

7.18 Minor variations **can be** used to:

- Make minor changes to the structure or layout of a premises
- Make small adjustments to the licensing hours
- Remove out of date, or unenforceable conditions
- Add or remove certain licensable activities
- Add volunteered conditions to a premises licence or club premises certificate

7.19 Examples of where the new minor variation process **cannot be** used to:

- Extend the period for which the licence or certificate has effect
- Specify, in a premises licence, an individual as the premises supervisor
- Add the sale by retail or supply of alcohol as an activity authorised by a licence or certificate
- Authorise the sale by retail or supply of alcohol at any time between 23:00 hours and 07:00 hours
- Authorise an increase in the amount of time on any day during which alcohol may be sold by retail or supplied
- Vary a licence for community premises so as to apply the condition that every supply of alcohol under that licence must be made or authorised by the management committee

- Substantially vary the premises to which the licence or club premises certificate relates
- 7.20 On receipt of a minor variation application, the Licensing Authority will consider the appropriate and consult the relevant responsible authorities as it considers appropriate. In deciding on the application the Licensing Authority will consider any relevant representations received within the statutory time limit (ten working days from the day after the application was received by the Licensing Authority). The Licensing Authority will either grant the application or refuse it where it considers that the proposed application could impact adversely on any of the four licensing objectives.
- 7.21 If the Licensing Authority fails to determine the application within 15 working days, the application will be treated as being refused and the fee returned. However in such cases the Licensing Authority and applicant may agree instead that the undetermined application should be treated as a new minor variation application and that the fee originally submitted may be treated as a fee for the new application thus avoiding the need for a new application to be submitted.
- 7.22 Where an application is refused and is then re-submitted through the full variation process, the full 28 day notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).

## **8. Review of Premises Licence and Other persons**

- 8.1 In addition to Responsible Authorities, any other person can be involved in a number of licensing processes under the Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates regardless of their geographic proximity to the premises. These persons may themselves seek a review of a premises licence.
- 8.2 Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. The Licensing Authority should also consider whether the representation made is frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the Licensing Authority to be repetitious.
- 8.3 While any of these persons may act in their own right, they may also request that a representative makes the representation to the Licensing Authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can act in such a capacity.



- 8.4 The Licensing Authority acknowledges that local councillors can make representations in their own right if they live, or are involved in a business in the vicinity of the premises in question or if they have concerns about any premises regardless of whether they live or are involved in a business in the vicinity of the premises.
- 8.5 The Licensing Authority considers that Trading Associations, Trade Unions and residents and Tenant's Associations qualify as other persons.
- 8.6 The Licensing Authority will not generally view these bodies as other persons unless they have a member who can be classed as an Interested Party.
- 8.7 The Licensing Authority will generally require written evidence that a person is authorised to represent other persons in any case other than that is mentioned in paragraph 8.4 above.

### **Representations**

- 8.8 Any Responsible Authority or other persons may make relevant representations on applications for the grant of a premises licence or club premises certificate and request reviews of licence or certificates that have been granted.
- 8.9 A representation will only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious.
- 8.10 The police may object to the designation of a new designated premises supervisor (DPS) where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective.
- 8.11 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 8.12 The 2003 Act also provides for the suspension and forfeiture of personal licences by the courts following convictions for relevant offences, including breaches of licensing law. The police can at any stage after the appointment of a DPS seek a review of a premises licence on any ground relating to the licensing objectives if problems arise relating to the performance of a DPS.
- 8.13 The Police and Environmental Health department may make representations in respect of a notification of a temporary event notice on the basis of any of the licensing objectives.

- 8.14 The Licensing Authority must be satisfied that the representation is made by another person, who can generally only be determined by reference to the name and address of the person making it, this authority will not consider and representations that fail to provide those details.
- 8.15 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant or his/her representative. The Licensing Authority accepts that in exceptional circumstances an Interested Party may not wish for his/her personal details to be disclosed to the applicant.
- 8.16 Where the Licensing Authority considers that a relevant representation has been made and that exceptional circumstance exists, details of the name and address made be withheld from the copy of the representation that is provided to the applicant or his/her representative.
- 8.17 In all cases, applications and those making representations that are genuinely aggrieved by a decision of the Licensing Committee are entitled to appeal to the Magistrates' Court against the decision of the committee.
- 8.18 Where the Responsible Authorities or other persons do not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the premises licence or club premises certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003.

### **Review of Licences**

- 8.19 Where possible and appropriate, the Licensing Authority and Responsible Authorities will give early warning to licence holders of any concern about problems identified at premises and of the need for improvement.
- 8.20 Any Responsible Authority or other person may apply for a review of a premises licence or a club premises certificate by serving a notice containing details of the application on the holder of a licence or certificate and to each of the Responsible Authorities.
- 8.21 An application for review will be only 'relevant' if the grounds upon which it is made relate to the promotion of at least one of the four licensing objectives and is not frivolous, vexation or repetitious. An evidentiary basis will be required to be presented to the Licensing Authority.
- 8.22 Where other person applies for a review, the Licensing Authority must be satisfied that a review is relevant. There is no appeal to the decision of the Licensing Authority other than by the way of Judicial Review.
- 8.23 No more than one review from a person other than responsible authorities will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances or where it arises following a closure order.

## Conditions

- 8.24 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.
- 8.25 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of consideration of the representations.
- 8.26 That the Licensing Authority actively promotes the benefits of partnership working between the Council and local businesses to enhance business operations and thereby achieve the community benefits of minimisation of waste, enhancement of the street scene, promotion of community safety, reduction of the fear of crime and the encouragement of tourism and inward investment. It is recommended that Premises Licence holder contact the Licensing Authority to ensure up to date mandatory conditions are on display.
- 8.27 To maximise the efficiency of administering licences and reduce the necessity for hearings, the Licensing Authority will actively encourage applicants and clubs to consult with Responsible Authority and seek professional guidance from Council services, when operating schedules are being prepared to allow for proper liaison to take place in such areas as noise reduction, CCTV, refuse and litter etc., to avoid representations being necessary. The Licensing Authority accepts that while some applicants may find it useful to contact the Responsible Authorities and Council services for advice and professional assistance, others will not need to do so, and that applications cannot be refused on the basis that such consultation has not taken place.
- 8.28 Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives.
- 8.29 Any conditions arising from the operating schedule or as a result of representations will focus primarily upon the direct impact of the activities taking place at licensed premises and on those attending the premise sand members of the public living, working or otherwise engaged in normal activity in the areas concerned and will cover matters that are within control of the individual licensees.
- 8.30 If an applicant volunteer's prohibition or restriction in his/her operating schedule because his/her own risk assessment had determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence or certificate and will be enforceable as such.

8.31 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premise, to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will, therefore, be avoided and no condition will be imposed that cannot be shown to be necessary for promotion of the licensing objective.

## 9. Temporary Event Notices (TEN's)

9.1 The Act sets out the legal requirements relating to TEN's. A TEN is a notification given by an individual to the Licensing Authority where it is proposed to use premises for one or more licensable activities during a period not exceeding 168 hours and can be used to authorise relatively small-scale ad hoc events held in any premises involving no more than 499 people at any one time.

9.2 A TEN is typically used to:

- Authorised a licensable activity at a premises not currently licensed e.g. selling alcohol at a fete
- Temporarily extending the hours for providing a licensed activity at an existing licensed premises for a specific event
- Provide for licensable activities not authorised by the existing licence.

9.3 The organiser must give the Licensing Authority notice of the proposed event and give a copy of the notice to the Police and Environmental Health.

9.4 Where an application or any part of it, is submitted in writing, it is the responsibility of the applicant to ensure that a copy of the application has been sent to the Police and Environmental Health, as stipulated in the Act. Where an application has been submitted electronically copies of the application will be forwarded to the responsible authorities by the Local Authority.

9.5 The organiser must normally give the Licensing Authority a minimum of 10 clear working days' notice. This does **NOT** include the date of submission, the date of the event, weekends or bank holidays. In a significant number of cases this time period does not allow sufficient time for the organiser to liaise with the Police or Environmental Health and other relevant bodies to ensure that the event passes off safely with minimum disturbance to local residents. Therefore the Licensing Authority will normally expect that the application be submitted no earlier than 28 days before the planned event. The giving of 28 days' notice allows for responsible discussions to take place with the Police and Environmental Health. The Licensing Authority will consider any breach

of previous informal agreements to be an important matter when considering an objection to a TEN.

- 9.6 Late TENs can be submitted up to five working days but no earlier than nine working days before the event due to take place, and unless given electronically to the Licensing Authority, must also be sent to the Police and Environmental Health. A late TEN given less than five days before the event to which it relates will be returned as void and the activities returned as void and the activities to which it relates will not be authorised.
- 9.7 A key difference between standard and late TENs is the process following an objection notice from the Police or Environmental Health. Where an objection notice is received in relation to a standard TEN the Licensing Authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the Police or Environmental Health gives an objection to a late TEN the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions.
- 9.8 The Licensing Authority will also actively encourage the organiser to notify other relevant agencies such as the Fire Authority (crowd safety and management) in order to obtain expert advice on how best to minimise the risk of injury and public nuisance. In addition, whilst under the Act applicants do not have to notify the Planning Authority in respect of a temporary event, however they are encouraged to do so to ensure that any relevant planning consent is in place.

## 10 Live Music Act 2012

- 10.1 The Live Music Act came into force on the 1 October 2012 and has made a number of changes to the Licensing Act 2003. This is designed to encourage more performances of 'live' music.
- 10.2 Live and recorded music is generally licensable under the Licensing Act but there are now many exemptions.

**Live Music** : no licence permission is required for:

- a performance of unamplified live music between 8.00am and 11.00pm on any day on any premises;
- a performance of amplified live music between 8.00am and 11.00pm on any day on premises authorised to sell alcohol for consumption on those premises provided that the audience does not exceed 500;
- a performance of amplified live music between 8.00am and 11.00pm on any day in a workplace that is not licensed to sell alcohol on those premises provided that the audience does not exceed 500;
- a performance of amplified live music between 8.00am and 11.00pm on

any day in a church hall, village hall, community hall or other similar community premises that is not licensed by a premises licence to sell alcohol provided that the audience does not exceed 500 and the organiser obtains consent for the performance from a person who is responsible for the premises;

- a performance of amplified live music between 8.00am and 11.00pm on any day at the non-residential premises of a local authority, school or hospital provided that the audience does not exceed 500 and the organiser obtains consent.

**Recorded music** : no licence permission is required for:

- any playing of recorded music between 8.00am and 11.00pm on any day on premises authorised to sell alcohol for consumption on those premises provided that the audience does not exceed 500;
- any playing of recorded music between 8.00am and 11.00pm on any day in a church hall, village hall, community hall or other similar community premises that is not licensed by a premises licence to sell alcohol provided that the audience does not exceed 500 and the organiser obtains consent for the performance from a person who is responsible for the premises;
- Any playing of recorded music between 8.00am and 11.00pm on any day at the non-residential premises of a local authority, school or hospital provided that the audience does not exceed 500 and the organiser obtains consent.
- Any existing conditions on a premises licence which relate to live or recorded music are suspended between 8.00am and 11.00pm provided the premises are open for the supply of alcohol for consumption on the premises at the time that the entertainment is taking place and that, if the music is amplified, the audience does not exceed 500 people. Such conditions may be reinstated, or new conditions added, as a result of a review of a premises licence or club premises certificate.

- 10.3 When considering whether an activity constitutes ‘the provisions of regulated entertainment’ each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance is live music or not, so organisers of events are encouraged to check with the Licensing Authority if in doubt

*None of the exemptions affect the need to apply for copyright licensing or the requirement not to cause a noise nuisance. Regulated Entertainment is a complex area and there are other minor exemptions – the council recommends seeking legal advice if in any doubt.*

## **11 Cumulative Impact Policy**

### **Need for Licensed Premises**

- 11.1 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its Statement of Licensing Policy.

### **Cumulative Impact of a Concentration of Licensed Premises**

- 11.2 “Cumulative Impact” means the potential impact upon the promotion of the licensing objectives of a significant number of licenced premises concentrated in one area. The cumulative impact of licenced premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its Statement of Licensing Policy.
- 11.3 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases, the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 11.4 The Licensing Authority can only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting, or likely to result, in unacceptable levels of crime and disorder or public nuisance.
- 11.5 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any part of the licensing objective.
- 11.6 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses and/or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspect as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be upon the objectors to provide evidence that additional licences or the variation of existing licences would produce the cumulative impact claimed.

### **Advice and Guidance**

- 11.7 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003 provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority and the Responsible Authorities will offer as much advice and guidance to applicants as resources permit.
- 11.8 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that he/she discusses his/her proposal with the Licensing Team and those from who they think representations are likely prior to submitting an application. Once an application has been logged, there are statutory timescales imposed upon the application and determination process, which restricts the opportunity for such discussions, liaison and mediation.
- 11.9 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 night, street cleaning and litter patrols
  - Powers of local authorities to designate parts of the local authority areas where alcohol may not be consumed publicly, namely the issuing of Public Protection Orders to these areas
  - 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 areas with Public Protection Orders
  - Police powers to close down instantly for up to 24 hours any licenced premises to temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
  - The power of police, other responsible authorities or local resident or business to seek a review of the licence or certificate in question.

## **12 Late Night Levy**

This is a power conferred on Licensing Authorities by the Police Reform and Social Responsibility Act 2011 which enables a levy to be charged to premises that are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-



night economy. The option of introducing such a levy will be kept under review by the Council and would not be introduced without the required consultation.

### **13 Early Morning Restriction Orders (EMRO)**

The power for Licensing Authorities to make, vary or revoke an EMRO set out in sections 172A to 172E of the Act.

- 13.1 An EMRO enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objective.
- 13.2 EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
- 13.3 It is the Council's intention to support businesses rather than hinder them whilst ensuring promotion of the licensing objectives. However where this has deemed to fail then an EMRO could be considered as a possible solution.
- 13.4 An EMRO:
  - Applies to the supply of alcohol authorised by premises licences, club premises certificate and temporary event notices
  - Applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week and can apply for different time periods or unlimited time period (e.g. an EMRO could be introduced for a few weeks to apply to a specific event)
  - Applies to the whole or any part of the Licensing Authority's area
  - Will not apply to the supply of alcohol to residents by accommodation providers between 12am and 6am, provided the alcohol is sold through mini-bars/room service
  - Will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Act

#### **EMRO Request**

- 13.5 It is expected that the need of an EMRO may be identified by a number of different organisations. For example the request for an EMRO may originate from Cumbria Police, Environmental Health or residents association. It may come via another Responsible Authority. It is likely more than one organisation may be involved in the process.
- 13.6 It is anticipated that the request would be referred to Licensing where a designated procedure will be applied to determine if an EMRO is appropriate. If appropriate, the request will be referred to the Licensing Committee. Members would be supplied with evidence of the issues being experienced in

the area in support of the EMRO. The Licensing Committee will decide if, on the strength of the evidence provided, that an EMRO is appropriate for the promotion of the licensing objectives and further work is to be undertaken to support the case. Members may decide that other measures would be more effective in dealing with the problems, or that licensing holders should engage with the authorities in an attempt to rectify matters before the request is considered further.

## Evidence

- 13.7 Section 182 Guidance to Licensing Authorities states that “The Licensing Authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The Licensing Authority should consider the evidence from partners, including responsible authorities and local community safety partnerships, alongside its own evidence, to determine where an EMRO would be appropriate for the promotion of licensing objectives.”
- 13.8 The level of evidence Licensing Committee will consider to support an EMRO is:
- Police evidence of reported alcohol related crime
  - Nuisance statistics compiled from complaints made to Environmental Health in relation to noise, odour and litter nuisance
  - Data gathered from complaints made to Licensing on matters which affect the licensing objectives
  - Anecdotal evidence from residents organisations, ward members and other representatives of people living in specific areas
  - Evidence obtained during the public consultation and associated public meetings
- 13.9 In addition the Section 182 guidance suggests other sources of evidence such as:
- Health related statistics such as alcohol-related emergency attendance and hospital admissions
- 13.10 This should, in part be provided by the organisation or group who are proposing an EMRO should be in force.
- 13.11 Once the Licensing Committee is satisfied that an EMRO is required to address the issues in an area, and all other measures have been tried and failed to address these issues, the formal process of implementing an EMRO will begin. The design of the EMRO will include:
- The days (period of those days) on which the EMRO would apply
  - The area to which the EMRO would apply
  - The period for which the EMRO would apply
  - The date from which the proposed EMRO would apply

## **Consultation**

- 13.12 The proposed EMRO will be advertised for at least 42 days. The proposal will be published on the Council's website and in a local newspaper. A notice will be sent to all affected people in the area who hold a premises licence or a club premises certificate, or people who use TENs or who would hold a provisional statement. A notice will be displayed in the area, and sent to responsible authorities and adjacent licensing authorities.
- 13.13 Any affected by the EMRO has 42 days in which to make a representation on any aspect of the EMRO design. If relevant representations are received then a hearing will be held to consider them. If there are a number of representations, the Licensing Authority may consider whether to hold the hearing over several days. The hearing will commence within 30 working days of the end of the notice period.
- 13.14 As a result of the hearing the Licensing Authority has three options:
- To decide that the proposed EMRO is appropriate for promotion of the licensing objectives
  - To decide that the proposed EMRO is not appropriate and therefore the process should be ended
  - To decide that the proposed EMRO should be modified. In this case it may be necessary to advertise again

## **Formal Decision**

- 13.15 Once the Licensing Authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination will be put to full Council for its final decision. Once the EMRO is made, the authority will send a notice to all affected persons and make it available for 28 days on the website.
- 13.16 A variation or revocation of an order will follow the same process. However an order could be applied for a specified time and in this case the order ceases to apply on the final day.
- 13.17 Once an EMRO is in place, the Licensing Authority will update this policy as soon as possible to include reference to the EMRO in this section.
- 13.18 There are currently no EMROs in place for this area.

## **14 Enforcement**

- 14.1 Carlisle City council delivers a wide range of enforcement services aimed at safeguarding the environment and the community, and at providing a 'level playing field' on which businesses can trade fairly. The administration and enforcement of the licensing regime is one of these services. Carlisle City Council is committed to the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 14.2 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives that it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or break the law consistently.
- 14.3 The Licensing Authority works in partnership with all of the Responsible Authorities under the Act on enforcement issues. This joint working provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are operated well.

## **15 Administration, Exercise and Delegation of functions**

- 15.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 15.2 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.
- 15.3 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licence and certificates where no representations have been made, has been delegated to Licensing Authority officers.
- 15.4 The Licensing Committee will consist of 12 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 Sub-Committee involving an application within their ward.

- 15.5 Every determination of a licensing application by the Licensing Committee or Licensing Sub-Committee shall be accompanied with clear, cogent reasons for the decision.
- 15.6 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.
- 15.7 The authority will ensure that members and officers are appropriately trained to carry out their duties under the Act.
- 15.8 The table at Appendix 2 sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.
- 15.9 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 full Committee and the full Committee to the full Council.

## Table of Delegated functions

Matters to be dealt with	Sub-Committee	Officers
Application for personal licence	If objection made	If no objection made
Application for personal licence with unspent convictions	All cases	
Decision to suspend or revoke a personal licence due to the holder being convicted of a relevant conviction	All cases	
Application for Premises Licence/Club Premises Certificate	If representation made	If no representation made
Application for Provisional statement	If representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate	If representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate by way of minor variation		All cases
Application to vary Designated Premises Supervisor (DPS)	If Police object	All other cases
Request to be removed as DPS		All cases
Application to 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 Police objection to a TEN	All cases	
Determination of film classification	All cases	