



REPORT TO EXECUTIVE

PORTFOLIO AREA: INFRASTRUCTURE, ENVIRONMENT AND TRANSPORT

Date of Meeting: Monday 13th September 2004

Public

Key Decision: Yes

Recorded in Forward Plan:

Yes

Inside Policy Framework

Title: FORMULATION OF LICENSING POLICY -
LICENSING ACT 2003

Report of: Head of Environmental Protection Services

Report reference: EPS. 52/04

Summary: The Licensing Act 2003 received Royal Assent in July 2003. The major implication for this council is that liquor licensing will be transferred from the Licensing Justices to Local Authorities. A requirement of the new legislation is that Local Authorities must publish their Licensing Policy by the "first appointed date", which has been announced as 7th February 2005. A county officer working group was formed to produce a draft policy discussion document. This document has been sent out for extensive consultation, following which the county document will be developed locally as a Carlisle policy to ensure that it fully reflects local representations and conditions.

Recommendations:.

That the Executive approves the content of the draft Licensing Policy and the consultation process and forwards the draft Policy to Community Overview and Scrutiny Committee on 18/11/2004 for their consideration.

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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 and Guidance issued under section 182 of the Act.

1. Background

In 1999 the Government announced that it was to table legislation that would completely reform liquor licensing and associated activities. In 2000 a consultation document was published and this Council reported back with their comments. It was not until November 2002 that the Licensing Bill was finally published, followed by the draft explanatory notes in February 2003.

The Bill eventually received Royal Assent in July 2003. The Guidance under the Act was published in July 2004 and the “first appointed date” announced as 7th February 2005. Prior to this date, Local Authorities must have published their Licensing Policy and be prepared to receive applications from 7th February.

2. Statement of Licensing Policy

2.1 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 before the beginning of the period (a date to be appointed by the Secretary of State).
- c. Continue for each subsequent period of three years.

2.2 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. the area child protection committee
- d. 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, and
 - iv. such other persons as the licensing authority considers to be representative of businesses and residents in its area.

2.3 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.

3. Working Groups

3.1 Officers of the Cumbria local authorities formed a working group early in 2003 to formulate a draft licensing policy that would hopefully be acceptable to all six authorities. This followed a joint meeting where Cumbria Constabulary and Cumbria Fire Service expressed their concern that six different policies would be produced within the county.

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- 3.2 On 28th May 2003 Carlisle City Council Licensing and Regulatory Panel supported this proposition and elected their own working group to consider the county draft. The local group met on a number of occasions in 2003 and approved the current draft policy.
- 3.3 Whilst it is accepted that a common policy for the county would be favoured by many organisations, it is recognised that each council will wish to develop the policy to recognise issues of local concern. The final policy will be a Carlisle City Council document, based upon the framework of the county draft but developed to fully recognise local issues relative to Carlisle.

4. County Draft Policy

Draft 6 of the county policy has just been published and is annexed to this report for the information of the Executive (Appendix A).

5. Consultation

5.1 County

The county group will consult with e.g. Cumbria Police, Cumbria Fire Service, British Transport Police, Cumbria Ambulance Service, Area Child Protection Committee, Cumbria Health & Safety Liaison Group, Cumbria Food Liaison Group and other county based organisations.

5.2 Local

The local group will consult with many Carlisle based organisations including Carlisle Police, 'C' Division HQ Cumbria Fire Service, NHS Trust, Housing Associations, Carlisle Law Society, Licensed Victuallers, Parish Councils Association, Clerk to the Justices.

In addition all existing licence holders will be made aware of the draft policy and invited to comment on it. An advertisement will be placed in the local newspaper and a copy included on the council web site.

5.3 Following extensive consultation, the final draft of the Carlisle policy will be developed to represent the issues relating to Carlisle and be presented to the full council for approval. The proposed timetable is attached but may be subject to change dependent upon Government regulations yet to be published (Appendix B).

6. RECOMMENDATIONS

That the Executive approves the content of the draft Licensing Policy and the planned consultation and forwards the draft Policy to Community Overview and Scrutiny Committee on 18/11/2004 for their consideration.

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7. REASONS FOR RECOMMENDATIONS

To secure the adoption of the Licensing Policy in accordance with the required timetable.

8. IMPLICATIONS

- Staffing/Resources – Addressed through previous report EPS.32/03
- Financial - Not known until regulations covering the fee structure are published. There remains the potential for the transfer to require financial support from the Council should the nationally set fees fail to meet the operational costs of the Licensing Service.
- Legal – The Head of Legal Services has been consulted and is aware of the implications of the new legislation.
- Corporate – The Council has a Statutory duty to enforce the Licensing proposals
- Risk Management – Incorporated within the Council's Risk Register.
- Equality Issues – The Licensing Policy has been drafted to ensure that equality is fully addressed.
- Environmental – The legislation recognises the effect that the cumulative impact of licensed premises may have on the local environment. Licensing Committees may take this into consideration when considering their options.
- Crime and Disorder – The new legislation recognises the requirements of the crime and disorder strategy. Child protection procedures are also recognised through the Area Child Protection Committee. These have been included as two of the four licensing objectives in the Act.

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CARLISLE city council
DRAFT LICENSING POLICY

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1. INTRODUCTION

- 1.1. On 10 July 2003 the Licensing Act 2003 (the Act) received Royal Assent. The Act 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 Council 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. Previous legislation dealing with these matters is to be repealed.

- 1.8. 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. 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.
- 1.9. 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.
- 1.10. 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 Human Rights Act 1998 - Subject to certain qualifications, the Act makes it unlawful for a public authority to act in a way that is incompatible with a Convention right. This policy is considered by the Council to be compatible with the Convention rights
 - 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
- 1.11. 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:
- The Health and Safety at Work Act 1974
 - The Town and Country Planning Act 1990
 - The Environmental Protection Act 1990
 - The Disability Discrimination Act 1995
 - The Criminal Justice and Police Act 2001
 - The Fire Precautions Act 1971 (Parts to be repealed)
 - Fire Precautions (Workplace) Regulations 1997 (as amended 1999)
 - Regulatory Reform Order (Fire Safety) Act 2004
 - The Anti-Social Behaviour Act 2003
- 1.12. 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.
- 1.13. 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.

- 1.14. 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. For example, the authority will not impose conditions on a licence, which duplicate conditions imposed on a fire certificate or planning permission. To avoid duplication and conflicting decisions, 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.
- 1.15. 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.
- 1.16. 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 effect the grant of licences which meet applicants' requirements whilst promoting the licensing objectives.
- 1.17. Applications (including all accompanying documents) must be in the prescribed form and must meet all of the requirements of the Act.
- 1.18. 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.
- 1.19. 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.
- 1.20. In this document:

- “the Act” means the Licensing Act 2003.
- 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” means Carlisle City Council
- “the District” means the area within the authority’s jurisdiction
- the authority shall not rely upon those paragraphs entitled “*Reason*” and in italics. These are included to explain why the authority reached a particular policy decision.

- 1.21. For those who, at the time the Act comes into force, have existing licences relating to any of the matters now falling within the licensable activities, the transitional arrangements set out in appendix 3 will apply.

2 OVERRIDING POLICY

2.1. Policy

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.

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 against 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.

3 PERSONAL LICENCES

3.1. The Law (Part 6 of the Act)

- 3.2. A personal licence is a licence granted to an individual, which authorises that individual to supply alcohol or authorise the supply of alcohol.
- 3.3. A person should submit an application for a personal licence to the licensing authority for the area in which they are ordinarily resident.
- 3.4. If granted a personal licence has effect for a period of ten years after which it can be reviewed for further periods of ten years at a time.
- 3.5. 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).
- 3.6. The authority will require all applicants to produce a Criminal Records Bureau certificate.
- 3.7. 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.
- 3.8. 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 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 which 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

If the requirements of section 118(2)(a), (b) and (c) of the Act are met, and the applicant has not been convicted of a relevant offence, the authority is

required by law to grant a licence. 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. 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 to all Responsible Authorities for the Council's Licensing Authority area. These include:

- The Chief Officer of Police, Cumbria Constabulary
- The Chief Fire Officer, Cumbria Fire Service

- Environmental Protection Services, Carlisle City Council
- Planning Services, Carlisle City Council
- Area Child Protection sub-Committee
- 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

See Appendix 5 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. When considering an application for a licence, the authority will take into account the following factors in assessing its likely impact 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 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: 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 Council 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.

4.3. PREVENTION OF CRIME AND DISORDER

4.3.1 General Policy

The licensing authorities 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. The Council 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 and detect 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
- 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 Council 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 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 there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly

- 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 Partnership headings]

Applicants will be expected to have regard to the information published by the [relevant CDP] 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 Council is under a duty to promote. The Council 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 Council 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.

In particular the Council 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 Council will consider imposing these recommendations by way of licence conditions.

Reasons

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 their distribution and possession is controlled by law. 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 night clubs 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 a risk assessment basis 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 with the fire authority, police, building control and environmental health officers.
- 4.4.3. A premises licence will not normally be granted unless the premises meet the statutory and any additional requirements of Environmental Health, Building Control, Fire Authority and other responsible authorities in relation to the safety of staff and customers.
- 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, restaurants and takeaways. Each type of premises has different risks associated with it. It is essential that applicants look at all of the risks presented by their premises and propose practical steps to ensure the safety of staff and customers.

- 4.4.5 The authority expects applicants to submit a risk assessment addressing in particular the following issues and will not normally grant a licence where they are not satisfactorily addressed
- 4.4.6. Electrical safety: The authority expects premises to have been inspected in the context of the proposed licensable activities and to meet the appropriate British Standards. Conditions will be imposed requiring such standards to be maintained throughout the period of the licence.
- 4.4.7. Fire Safety – The authority expects all applicants to submit a suitable and sufficient fire risk assessment to ensure that the safety of employees and the public is safeguarded in the event of fire at the premises. This applies regardless of whether or not any changes to the structure or use of the premises have been made since a previous fire certificate was issued. It is likely that the fire authority will visit any premises where they have concerns for the safety of employees or members of the public following consideration of the fire risk assessment that is submitted. Guidance on the preparation of fire risk assessments will be available. Applicants will be expected to comply with any further requirements of the relevant authority. The authority may impose conditions to secure compliance with those requirements.
- 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 will do so in any other case. The authority will not normally grant a licence where it is concerned for the safety of the public because a fire certificate was granted before the intended use was proposed or 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 such circumstances, occupancy conditions may be imposed.
- 4.4.11. The authority will normally impose conditions to secure the provision and adequate maintenance of necessary equipment and the compliance with any procedural requirements of any relevant organisation (where such conditions will not duplicate requirements under existing legislation). It will also expect that adequate records will be kept to demonstrate compliance with the above requirements.

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 Council believes that customers should feel confident that when they enter premises they will be safe.

4.5 PREVENTION OF NUISANCE

4.5.1 Licensing Hours

4.5.2. General policy

- 4.5.3. 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.
- 4.5.4. 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.
- 4.5.5. 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.
- 4.5.6. 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.

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.

4.5.7. Policy - Location of premises

- 4.5.8. The authority will assess the potential impact of the premises against the characteristics of the area in which they are situated. For example, 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 agreed with authority officers 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.

4.5.9. Noise

4.5.10. Policy

4.5.11. 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.

4.5.12. In particular, the authority will give careful consideration to an application for a licence for premises situated in a predominantly residential area where the proposed hours of operation would be likely to result in unreasonable noise disturbance between the hours of 11pm and 7am.

4.5.13. 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.

4.5.14. 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)

4.5.15. 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)
- 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

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

4.5.17. Live Music, Dancing and Theatre

4.5.18. 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.

4.5.19. 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.

4.5.20. 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 if not properly managed or controlled.

4.5.21. Tables and Chairs outside Premises including garden areas

4.5.22. Policy

4.5.23. 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 and planning, will not be contravened

4.5.24. 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.

4.5.25. 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 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)

4.5.26. 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.

4.6.1 General Policy

4.6.2. The authority will not normally impose conditions prohibiting the admission of children to any premises, 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.

4.6.3. 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

4.6.4. 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

4.6.5. Applicants should address the action they intend to take to protect children from harm in their operating schedules.

4.6.6. Where there is provision of entertainment specifically for children (e.g. a children's disco) the Council will require the presence of sufficient adults to control the access and egress of the children and assure their safety.

4.6.7. Where children are taking part in any regulated entertainment the authority will expect the responsible adult to obtain guidance from the Education Welfare department.

4.6.8. The authority recognises the Area Child Protection Sub Committees as a "Responsible Authority" under the Act, in respect of the protection from children from harm

4.6.9. Proof of Age

4.6.10. The authority expects personal licence holders to contribute to not serving alcohol to children under 18 years , except in limited circumstances allowed by law. The authority recommends that the only way to verify a person's age is by reference to the following:

4.6.11. Passport, photocard driving licence issued by EU country, an accredited proof of age scheme identity card, a citizen card supported by the home Office (see www.citizencard.com), an official ID card issued by HM Forces or by EU country bearing the photograph and birth date of the bearer.

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.

4.6.12. Adult entertainment

4.6.13. Policy

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

4.6.15. 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.

4.6.16. 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.

4.6.17. In considering the grant of applications involving striptease the Council will also have regard to the increased risk of nuisance to nearby residents and will consider rejecting the application or attaching appropriate conditions.

Reasons

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.

4.6.18. Exhibition of films

4.6.19. Policy

4.6.20. 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.

- 4.6.21. 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.
- 4.6.22. Licensees will not generally be permitted to exhibit any films that are not classified by BBFC without the prior written consent of the authority.
- 4.6.23. 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.

- 4.6.24. Staging of plays

- 4.6.25 Policy

- 4.6.26. 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

- 4.6.27. 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 Council 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 Council 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 back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.

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.

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

Reason

It is not the policy of the Council 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 Council as licensing 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

- 4.8.3. If no relevant representations are received, a licence will normally 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.
- 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. 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 Council 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.
- 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 or conditions attached to a fire certificate.
- 4.8.7. However, there may be occasions when conditions will be imposed which the Council considers necessary for the promotion of the licensing objectives and which overlap with other areas of regulation, when for example the conditions on the fire certificate or planning permission do not adequately deal with those matters.
- 4.8.8. In general any conditions imposed will be drawn from the pool of conditions set out in Appendix 2, but the authority reserves the right to amend model conditions or substitute other conditions as it considers appropriate in any particular instance.
- 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 normally 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 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.

4.12 USEFUL DOCUMENTS

- 4.12.1. Applicants may find that advice given in the following documents will be relevant:
- 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
 - Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
 - Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 25804
 - The Guide to Safety at Sports Grounds (The Stationery Office 1997) (“The Green Guide”) ISBN 0 11 300095 2
 - Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances (Independent Street Arts Network – www.streetartsnetwork.org.uk/pages/publications.htm.)

5 COMPLAINTS / REVIEW OF LICENCES

5.1 Complaints

5.1.2. The authority will investigate complaints against 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 an interested party (such as a local resident, or a resident's association) has made

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

5.1.3. Then the council will initially arrange a mediation meeting to address, clarify and try to resolve the issues of concern.

5.1.4. This process will not override the right of any 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 Class A 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 Enforcement Concordat and the authority Licensing Enforcement Policy.
- 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 Service, Trading Standards etc.
- 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 local police and the Fire Authority on enforcement issues to avoid duplication and to provide for the most efficient deployment of Council, police and Fire Authority officers in respect of inspection of licensed premises and the enforcement of licensing law.
- 6.5. Furthermore the policy of the Council 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.

7 PERMITTED TEMPORARY ACTIVITIES

- 7.1. The law (Part 5 of the Act)
- 7.2. 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 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.
- 7.3. The maximum number of persons allowed on the premises at the same time during the temporary event is 499.
- 7.4. If alcohol is to be supplied, all supplies must be carried out by or under the authority of a personal licence holder.
- 7.5. 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.
- 7.6. 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.
- 7.7. There are limitations on the number of temporary event notices which can be given by individuals and which can be given in relation to particular premises.
- 7.8. 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.
- 7.9. 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. All such matters dealt with by officers will be reported for information and comment only to the next Committee meeting
- 8.4. 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 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. A report will be made to the licensing committee indicating the delegated decisions taken by officers and the general grounds of the frivolous and vexatious representations and the reasons they were rejected.
- 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 <i>designated premises supervisor</i>		If a police objection	All other cases
Request to be removed as designated <i>premises supervisor</i>			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 <i>certificate</i>		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 <i>relevant</i> authority considering the application		All cases	
Determination of a police <i>objection</i> to a temporary event notice		All cases	

A Full Committee will consist of 12 members, with a quorum of 3. A sub-committee will consist of 3 members.

APPENDIX 2 – Specimen Model Conditions

APPENDIX 3 Transitional Provisions (Schedule 8 of the Act)

The transitional period is taken to be the period between the first appointed day and the second appointed day. It has been announced that the first appointed date will be 7th February, 2005. A period of at least six months is necessary between the publication of the Guidance under section 182 of the Act and the first appointed day. The transitional period will be nine months from the first appointed day. Where there have been no material changes since the existing licence was granted, the application for conversion will be granted. The new licence will take effect on the second appointed day.

Anyone who has an existing licence or club certificate for an activity that falls within one of the licensable activities will be able to apply in the transitional period for conversion of their existing licence(s).

Where an application for conversion of an existing licence is granted, the new licence will be granted subject only to such conditions as the authority believes reproduce the effect of restrictions and conditions on the existing licence(s).

Where there has been a material change, the conversion will be granted unless the police object on the grounds that to grant the conversion would undermine the crime prevention objective. Such representations will be considered against the policies in this document.

At the same time as submitting an application for conversion of an existing licence, a licensee may apply for a variation of the licence. Such an application will be considered against the policies in this document and will normally be granted unless the proposed variation conflicts with the policies.

APPENDIX 4 – List of organisations consulted (in addition many individuals have made personal contributions)

APPENDIX 5 – Contact list

Licensing Act 2003

Timetable of Committee Dates

19th April	Submit report on committee structure for L&RP on 28th April
28th April	L&RP consider report & recommend to Full Council
28th June	City Council approve Licensing Committee structure
7th July	Publication of Licensing Act Guidelines by Govt.
29th July	County Working Group consider Guidelines and amend draft policy
9th August	CMT Forward Plan item
16th Aug - 30th Sep	Public consultation both at county and local levels
25th August	Submit draft for CMT
31st August	Submit current draft for Executive on 13th September
13th September	Executive consider current draft
1st-7th October	County Working Group prepare final draft from representations
11th October	Submit final draft for L&RP on 20th October
20th October	L&RP consider final draft with recommendations to City Council on 18th January
8th November	Submit final draft for Community O&S on 18th November
17th November	CMT Agenda consider final draft
18th November	Community Overview and Scrutiny consider final draft
22nd November	Submit final draft for Executive on 6th December
6th December	Executive consider final draft
18th January 2005	City Council consider final draft
19th January	Publication of Licensing Policy
7th February	1st appointed date
???	2nd Appointed date (7th November 2005?)