



Draft Statement of Licensing Policy

2016 - 2021



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DRAFT LICENSING POLICY v01d

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Fylde's Vision Statement

We want Fylde to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment.

By operating responsibly and safely, such venues will enhance the attractiveness of the area to visitors, while maintaining our residents' quality of life and the special and valued character of the area.

Definitions in the Licensing Policy

In this policy:

“the Act” means the Licensing Act 2003

“We”, “our” and “us” means Fylde Council operating as the licensing authority under the Act

Any expression which is defined in the Act has the same meaning as in the Act

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Purpose and Scope of the Licensing Policy

- 1.1** The Act requires licensing authorities to publish a ‘statement of licensing policy’ every five years, which sets out how they intend to exercise their functions. The policy sets out the general approach of the licensing authority to making licensing decisions. However, each application must be considered on its own individual merits. Further, the licensing authority can only decide on an application if relevant representations have been made about it.
- 1.2** The policy covers regulated licensable activities at licensed premises, by qualifying clubs and at temporary events. Nothing in this policy will prevent a person applying for a variety of permissions under the Act. The policy covers the following licensable activities:
- retail sales of alcohol
 - supply of alcohol by or on behalf of a club
 - provision of regulated entertainment
 - provision of late night refreshment (hot food and drink at any time between 11.00 p.m. and 5.00 a.m. for consumption on or off the premises)
- 1.3** The policy has been prepared in accordance with the Act and statutory guidance issued by the Secretary of State.
- 1.4** Under the Act, we must carry out our licensing role with a view to promoting the four licensing objectives, which are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

Whilst we must also have regard to this Statement of Licensing Policy and any statutory guidance issued by the Secretary of State, it does not mean that we have to always follow the policy and guidance. We can depart from it if proper consideration has been given, it is appropriate to do so and we can justify our reasons.

2 Development of this Policy

2.1 We consulted a wide range of bodies in developing this policy. They included the licensed trade, responsible authorities (including Police, Fire and Rescue, Trading Standards, Health Authority), organisations representing residents, current licence holders and organisations who work in the alcohol harm field. The draft policy has been publicised in the community via our website and XX members of the public commented on it. We carefully considered all representations.

2.2 This Policy takes effect on ***** and will remain in force for up to five years. During this time we may update the policy to reflect legislative changes or any local changes that materially affect it.

3 Authority Profile

Fylde Council is one of fourteen licensing authorities in the County of Lancashire. It comprises the coastal towns of Lytham and St. Annes together with an extensive rural area. The borough is seen as peaceful, pleasant place to live; a rich green plain, dotted with hamlets and farms, with larger townships at Kirkham, Wesham, Freckleton and Warton. Lytham and St Annes retain much of their Victorian and Edwardian character as popular seaside resorts. More restrained and refined than Blackpool, they are noted for their open sands, excellent parks and gardens and for the peace and quiet that attracts both young and old as visitors and as residents.

The borough has a population of approximately 77,000 with an estimated 25% of the population over 65¹. The attractive nature of the Borough has led to a substantial number of people retiring to the area and tourists visiting the seaside resorts of Lytham and St Annes. In addition to tourism and the employment this brings, there are a number of large employers located within the Borough such as BAE Systems and BNFL Westinghouse.

¹ 2014 Lancashire Overview and District Profile

Approximately 311 different premises are licenced for regulated entertainment and/or the sale of alcohol. The main concentration of these can be found in the town centres of St Annes, Lytham and the market town of Kirkham and are broken down as follows:-

- 56 pubs & clubs (including 3 nightclubs)
- 29 certificated clubs (working mens', conservative, labour etc)
- 21 hotels
- 83 restaurants
- 62 shops & off-licences
- 19 village halls, schools & public spaces entertainment only)
- 24 other premises (sporting clubs, holiday complexes etc and one cinema.)
- 17 late night refreshment premises (food only)

There are many suburban and rural public houses in the district. These often serve estates or rural villages and provide a focal point for community life. Village halls, and licenced shops and stores also provide an important resource for many sectors of the community.

A number of public open spaces are licenced for public entertainment. A range of community and other events are organised at these spaces, attracting a wide range of age groups and sectors. Local businesses which provide catering, entertainment and event specialisms also benefit from such events.

However during the past few years there has also been a change to the drinking behavior of the nation, to which Fylde is no exception. There is more consumption of alcohol at home, bought at a lower cost from off-licences or supermarkets². This often takes the form of pre-loading (drinking alcohol at home before going out to pubs and clubs), especially by young people. This, together with the change to consumption habits can have a detrimental effect on the area.

Health problems caused by the over-consumption of alcohol not only financially impacts the NHS, but can have devastating effects on families and the general health of the population. The four licensing objectives do not include the promotion of a healthy lifestyle. However, we recognise the important role of licensing in relation to public health and will take it into account where it is appropriate to do so.

² <https://www.drinkaware.co.uk/about-us/research-and-impact/databank/data-and-facts-on-alcohol-consumption-and-the-consequences/consumption>

This policy is part of an overall strategy which compliments other documents and policies, multi-agency practices and the alcohol strategy that Fylde Borough Council supports.

4 Fundamental Principles

4.1 Personal Licences

4.1.1 Every supply of alcohol under a Premises Licence must be made or authorised by a person who holds a Personal Licence. Applicants must produce a Basic Disclosure which is no older than a calendar month from submission of the application and attain the recognised training qualification, before applying to the Licensing Authority where they live. Licences have no end date, however if a personal licence holder changes their name or address they must inform the issuing Authority and request an updated licence, for which there is a charge set by the government.

4.2 Premises Licences

4.2.1 These are issued to premises who wish to provide one or more licensable activities. This can be for the sale of alcohol, regulated entertainment or late night refreshment (sale of hot food or drinks between 23.00 and 05.00). Premises include off-licences, shops, supermarkets, pubs, clubs, takeaways, village halls and community spaces.

4.2.2 If alcohol is sold from a premises it must have a Designated Premises Supervisor (DPS) in place who supervises the sale of alcohol. A DPS must also be the holder of a personal licence. There is no end date on Premises Licences, however an annual fee is required and failure to pay this will result in suspension of the licence and the premises will not be able to trade.

4.3 Club Premises Certificates (CPC) are granted to members clubs who are able to prove through the operation of the club that they are a 'qualifying club'. As a club must adhere to its rulebook, elect a committee and be run for the benefit of its members there is no requirement to appoint a DPS. Only members and guests that have been signed in by a member of the club are permitted to be supplied with alcohol, so therefore members of the public who are neither members nor guests are not permitted to enter a club and be served alcohol, or take part in licensable activities.

4.4 Temporary Event Notices

Under the Act a 'light touch' notification process permits events that are of a short duration. A Temporary Event Notice (TEN) can be used to allow activities

at a non-licensed premises or to extend hours or activities for those that already hold a permission.

A TEN can allow events such as school PTA events where organisers wish to sell alcohol, at functions where a pay bar is provided (weddings etc) or simply allow an existing licensed premises a temporary extension to their operating hours. There is a limit of 500 persons that can attend an event held under a TEN and a time limit of 168 continuous hours. Applications must be sent to the Police and the Council's Environmental Health Officer, either of which may object.

4.5 Applications

4.5.1 Under the terms of the Act any individual or body may apply for a variety of permissions and have each application considered on its individual merit. Equally, any responsible authority or other person has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

4.5.2 Applicants and those making relevant representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the authority.

4.6 Key Messages

In this policy there are several key messages that set out the authority's expectations with regard to applications. These key messages do not add to or replace the four statutory licensing objectives. But the licensing authority considers that where applications are consistent with the messages:

- it is less likely that responsible authorities and other parties will make representations; and
- the Licensing Authority will be more likely to be satisfied that the applicant has sought to address any issues arising from the application in a responsible way.

Each application will nevertheless be judged on its own merits.

5 Links to Other Policies and Strategies

5.1 The Licensing Statement as set out in this document does not stand in isolation. By consulting widely prior to this policy statement being published, the Licensing Authority will take full account of local policies covering crime prevention, anti-social behaviour, culture, transport, race equality, planning and tourism as part of an integrated strategy for the Council, police and other agencies. Many of

these strategies may not be directly related to the promotion of the four licensing objectives, but could indirectly impact upon them.

5.2 Diversity

All licensing activities will be undertaken in the spirit of and in compliance with the authority's diversity policies and all related legislation.

5.3 Human Rights Act

The authority recognises that the Human Rights Act 1998 makes it unlawful for a public authority to act in a way that will be incompatible with a convention right. Consequently, an aim of this policy and in particular in relation to the decision-making processes of the Licensing Authority is to ensure that a licensing decision does not cause a breach of a convention right.

5.4 Crime and Disorder

Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the District Council, Lancashire Constabulary, Lancashire County Council and others, to consider crime reduction in the exercise of all their duties. The Licensing Act 2003 complements this duty for licensing authorities.

6 Avoidance of Duplication

It is not the intention of this policy to duplicate other regulatory regimes by imposing conditions that require general compliance with them. If, therefore, other existing law (for example, health and safety at work or fire safety legislation) already places certain statutory responsibilities on an employer or operator of premises, licensing controls will not impose the same or similar duties. Nevertheless, licensees should comply with those other regulatory regimes and adopt best practice wherever possible. See Appendix 5 for a list of relevant legislation for operators.

6.1 Planning

The regular use of premises for licensable activities normally requires planning permission.

Conditions attached to planning permissions may set a terminal hour for the use of premises. Where these hours are different to the licensing hours, the premises must close at the earlier time. A licence issued under the Act does not override any restriction placed on the premises by the planning authority. Premises operating in breach of their planning permission may be subject to enforcement under planning law.

The grant of a licence by the Licensing Authority does not relieve an applicant of the need to apply for building control authorisation.

Key Message

Licence applications should normally be from premises where

- *The activity to be authorised by the licence is a lawful planning use*
- *The hours sought do not exceed those authorised by any planning permission; and*
- *any existing hours are appropriate for the use of the premises.*

Note – Where the appropriate planning consent has not been obtained in advance and relevant representations are made, applicants will need to demonstrate that the operation of the premises would not be detrimental to the promotion of the licensing objectives.

6.2 Designated Public Places Orders /Public Space Protection Orders

The authority supports the use of Public Space Protection Orders (PSPO's) as a tool to prevent alcohol related crime and disorder in the streets. The Orders can give police and council officers powers to request someone who is drinking to stop or to hand over alcohol. If an individual refuses to follow an officer's instruction then an offence is committed.

Details of orders in place may be obtained from the Authority's website, www.fylde.gov.uk.

Key Message

The Authority expects premises that operate in areas where PSPO's have been implemented to have measures in place to ensure that their customers do not contribute to drink related anti-social behaviour and breach any order that is in place.

7 General Approach to Licensing

7.1 In undertaking its licensing functions under the Licensing Act 2003, Fylde Council will aim to ensure that licensable activities make a positive contribution to the social, economic, and environmental well-being of the borough. The authority aims to support a diverse cultural offering, providing something for everyone, in a safe, healthy and welcoming environment. In particular it supports a mixed night-time economy, which attracts all parts of the community, including families, and is not dominated by premises whose primary focus is the sale of alcohol.

7.2 It is keen to encourage family-friendly licensed premises where suitable entertainment is provided and to promote premises where parents and young people can enjoy their leisure time together. It recognises that premises within the leisure and hospitality sector of the economy are an important part of its district and are major contributors to the local economy, attracting tourists and

visitors whilst sustaining vibrant towns and communities. Leisure income provides employment for those service sectors with a knock-on effect for supporting businesses, often in the daytime economy.

7.3 This policy statement takes account of the need to regulate businesses that operate under the Act whilst balancing any adverse impact of activities on members of the public who live or work in the area concerned. The licensing authority and its committees cannot, however, use the Act for any purpose not defined in the Act as a 'licensing objective'.

7.4 This policy is not capable of being a universal remedy for all the various forms of anti-social behaviour or other problems associated with licensable activities. Where it is evident that a licensed premises is responsible for an undesirable event (perhaps by employing unsuitable people or exercising poor standards of management), then the licensing authority will make use of its powers under the Act, where they offer a remedy.

7.5 The authority will not downgrade its commitment to the licensing objectives to assist a failing venue, even if that means that the business ceases trading.

8 The Licensing Process

8.1 Making an application

All applications for personal and premises licences, club premises certificates, variations and provisional statements must be made in accordance with the Act, associated regulations and guidance, having regard to the content of this policy. Guidance notes are available from the licensing department or the Home Office, but an applicant may seek independent advice from an agent or solicitor.

Key Message

The key messages that are included in this policy will assist applicants when preparing applications, as a guide to the expectations of Fylde Borough Council. Each Council area is unique and issues that one area has, would not be appropriate to be dealt with in the same way as perhaps a neighbouring Borough. It is unlikely that any two licences are identical, as timings, licensable activities, conditions and operations vary enormously.

9 Applications

Key Message

We encourage pre-application dialogue between applicants, licensing officers and responsible authorities to fully understand the requirements of the Act, and the expectations of the responsible authorities.

9.1 The Application Form

The operating schedule should include all the necessary information to enable responsible authorities, or other persons, to assess whether the steps to be taken to promote the licensing objectives are satisfactory and have been fully addressed.

The Licensing Authority will expect the operating schedule to have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures, and the needs of the local community in addressing the four licensing objectives.

Applicants are strongly recommended to undertake a thorough and appropriate risk assessment of their business in order to arrive at a detailed operating schedule which identifies and meets all necessary steps to promote the licensing objectives in relation to the application made. Where the operating schedule does not provide enough details, there is an increased likelihood that representations will be made, which could lead to a hearing.

Applicants should have regard to this licensing policy when preparing their operating schedules so that they are aware of the expectations of the licensing authority and of the other responsible authorities. Specific application requirements are detailed in this policy document. Relevant legislation and guidance documents should also be accessed before submitting an application.

9.2 Consultation on Applications

Applicants are legally obliged to give notice of their application in two ways,

- by displaying an A4 blue notice at the premises for a period of 28 days and
- placing a notice in a local newspaper.

Each notice must clearly state the nature of the application, date by which representations must be made, where the application can be viewed in full and where representations must be sent.

This is to ensure that all who are affected by an application, who have rights under the Act to make representations, are aware of the application being made.

9.3 Representations

Only relevant representations may be taken into account when considering an application. To be relevant, a representation must address the likely effect of the grant of a premises licence on the promotion of at least one of the licensing objectives. They must also not be irrelevant, frivolous or vexatious.

Representations may be received from the responsible authorities. These include the Licensing Authority itself, [Lancashire Constabulary](#), [Lancashire Fire and Rescue](#), Environmental Protection Unit, Lancashire [Safeguarding](#) Children Board, local authority professionals in health and safety, planning and Environmental Health.

Representations may also be received from other persons. Greater weight will be given to representations from those who live, or are involved in a business in the Council's area and who are likely to be affected by the application.

Elected members may make a representation in their own right. They may also make representation on behalf of residents or the applicant; in both cases the elected member may not take part in the decision process.

Once submitted to the licensing authority, a representation becomes a public document. A copy of the representation is sent to the applicant and / or the agent acting on their behalf and is included in any report that is presented at a licensing committee hearing.

9.4 Determination of Applications

Unless relevant representations are made, applications will be granted on the terms set out in the application, under delegated powers, effective from the day after the 28 day representation period ends. The licensing authority has no discretion on the granting of licences unless representations are made.

Where relevant representations are made the licensing authority will consider each application whilst having regard to the Statement of Licensing Policy, the Act and section 182 guidance. In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its individual merits.

In most cases officers from the licensing authority will act to mediate between applicants and persons making relevant representations: seeking to resolve issues, provide additional information such as conditions agreed or amendments to the application to assist in preventing unnecessary hearings.

However, where relevant representations remain unresolved, the licensing authority will determine the application by way of a hearing by members of the Council's licensing committee.

When determining an application which has attracted representations relating to the prevention of crime and disorder and/or prevention of public nuisance, particular consideration will be given to the following in the context of the licensing objectives:

location and impact of licensed activity;

- intended use and the numbers likely to attend the premises;
- proposed hours of operation;
- scope for mitigating any impact and
- how often the activity occurs;

and in considering any application that is already licensed, the Licensing Authority will take into account any evidence:

- of past good operation of the premises and
- past demonstrable adverse impact from the activity especially on local residents or businesses;

9.5 Licensing Panel Hearings

Following due consideration of the application, the representations made and the case put forward by the applicant, the Licensing Committee have the following options to consider. Members may:-

- grant the application as applied for
- grant the application but with changes to the licensable activities and /or hours of operation
- as above but impose additional conditions which are appropriate for the promotion of one or more of the Licensing Objectives
- refuse to grant the application

Licence conditions will be tailored to the individual application and only those deemed appropriate and proportionate to meet the licensing objectives, following representations, will be applied.

We will not impose conditions that duplicate controls in other regulatory regimes.

Any party to the hearing aggrieved by the decision of the licensing authority has the right of appeal to the Magistrates' Court. Any appeal must be lodged within 21 days of the notification of the decision.

10 Conditions

10.1 Mandatory Conditions

These are applied to all licences/certificates and address issues such as irresponsible drinks promotions, measures of alcohol sold and the price of alcohol. The current conditions are printed in Appendix 4 of this Policy but are subject to change at any time by the Secretary of State.

10.2 Conditions Offered on the Application Form

An application requires the applicant to demonstrate how the business will be run and what measures the applicant proposes in order to promote the licensing objectives. Conditions are required which will be transferred onto any licence or certificate granted. These should be meaningful, achievable and understandable. To assist applicants the licensing department has produced a list of *suggested* conditions that applicants may refer to, however these are not prescriptive. Applicants may suggest conditions that they wish to have included on any granted licence, but these must be practical and meaningful and not overlap with other legislation, such as fire safety.

Key Message

Where the following conditions are not offered by applicants who are applying for the relevant licensable activity in order to promote the licensing objectives, the licensing authority will, if representations are received, expect the applicant to explain why they are not appropriate.

10.2.1 Applications for the sale or supply of alcohol (on or off the premises)

There shall be in place for the premises a written policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy shall require any person who appears to be under the age of 25 years to produce a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS) or if a proof of age card is not available a photo driving licence indicating that they are over 18 years of age. Armed Forces ID are also acceptable).

All staff will successfully complete training in age related products prior to operating a till on the sales floor. Refresher training will also be successfully completed not more than every 3 months, this will be fully documented and be available for inspection to police officers or other authorised persons.

The designated premises supervisor or the personal licence holder for the premises who is supervising the sale or supply of alcohol at that time shall not permit customers to congregate and consume alcohol sold or supplied by that premises in a public place within the immediate vicinity of the premises and in an area not so licensed for consumption to the annoyance or obstruction of others and shall prevent the removal of alcohol if it is intended for such a purpose.

The premises licence holder will arrange for litter and cigarette debris dropped in the vicinity of the licensed premise to be collected and removed at the end of operating hours each night.

No person in possession of a drink in a sealed or unsealed container shall be allowed to enter the premises except for the purposes of delivery.

10.2.2 Applications for the Provision of Late Night Refreshment

There shall be provided at the premises containers for the storage and disposal of waste foods and other refuse from the premises. Those containers shall be constructed, maintained and located so that access to them by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.

Where the premises provide food to the public for consumption on or off the premises there shall be provided at or near the exits, sufficient waste bins to enable the disposal of waste food, food containers, wrappings etc

10.2.3 Applications that include regulated entertainment after 2300

The licence holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.

There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, (or member and their guests) notices requiring customers to leave the premises and the area quietly. (Note, this may also include a reference to vehicles).

No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.

All external doors and windows shall be kept closed when regulated entertainment is being provided except for access and egress and in the event of an emergency.

10.3 Conditions that the Licensing Committee may impose

If, after receiving relevant representations, the licensing authority believes it to be appropriate or necessary, in order to promote any of the licensing objectives; it will consider attaching conditions to licences. However, only those conditions appropriate to meet the licensing objectives and only those which relate specifically to the representations received, will be imposed. The authority will not impose disproportionate and over burdensome conditions where there is no need for them. Any conditions considered appropriate will be tailored to the

individual style and characteristics of the premises or event and standard conditions will be avoided.

In addition, licence conditions will not seek to replicate offences which are set out in the Licensing Act 2003. For example, a condition that states that a licence holder shall not permit drunkenness and disorderly behaviour or serve alcohol to under 18s is unnecessary as this is already a criminal offence under the Act.

Conditions may, however, be attached to a licence which require measures to be taken to meet one or more of the licensing objectives to address a particular problem specific to those premises even if such measures may also be a general requirement of another regulatory regime.

11 Variation Applications

There are two types of variation that can be applied for with regard to a premises licence or a club premises certificate where an applicant seeks to alter the hours of operation, licensable activities, conditions or the layout of a premises.

11.1 Full Variation

The Licensing Authority requires that all variation applications are made in accordance with the statutory requirements and any guidance issued from time to time by the Council. Applications must be accompanied by the appropriate fee, advertised, and notified to the responsible authorities.

There is a 28 day representation period and the criteria for this and a representation is the same as new applications. The variation process also mirrors the procedure that new licence applicants are required to follow.

11.2 Minor Variation

The Act allows for a simplified procedure for varying a licence where the proposed changes will not have a detrimental effect on the licensing objectives. It cannot be used to enlarge the licensed area or to increase the hours for the sale or supply of alcohol.

This Minor Variation process may be used for changes such as:

- minor changes to the structure or layout of a premises
- small adjustments to the licensing hours
- removal of out of date irrelevant or unenforceable conditions
- addition of certain licensable activities including live music

Applications to alter the times of other licensable activities under the minor variation procedure will be considered on a case by case basis but there are a variety of matters that will be considered, such as, the nature of the licensable

activity, the extent of the additional hours sought, proximity of the premises to residential areas, when the proposed extension will apply and the track record and history of the premises.

The proximity and density of public houses, nightclubs, etc will be taken into account when making the decision on the minor variation application if customers from these premises are likely to be attracted to the proposed licensable activities in large numbers. For example, people visiting a takeaway after leaving a public house.

Applicants for minor variations may volunteer conditions to remove the risk of an adverse impact on the licensing objectives either as a result of their own risk assessments or after informal discussions with the responsible authorities. There is no mechanism for the Licensing Authority to impose their own conditions during a minor variation procedure. If a Minor variation is refused by the licensing authority, there is no right of appeal.

Key Message

Applicants should contact the licensing authority at an early stage to determine if the proposed changes contained within a minor variation application are appropriate and acceptable, or if they warrant an application for a full variation.

12 Temporary Event Notices

The system of permitted temporary activities is intended to be a light touch process. Instead of applying for an authorisation, a person wishing to hold an event gives notice to the licensing authority they propose to carry out licensable activities.

Temporary Event Notices are subject to the following limitations:

- The number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
- The number of times a TEN may be given for any particular premises (12 times in a calendar year);
- The maximum duration of an event authorised by a TEN is 168 hours (seven days);
- The maximum total duration of the events authorised by TENS in relation to individual premises (21 day in a calendar year);
- The maximum people attending at any one time (fewer than 500); and
- The minimum period between events authorised under separate TENS in relation to the same premises (not including withdrawn TENS) by the same premises user (24 hours)

Proposed activities that exceed these limits will require a premises licence or club premises certificate.

Premises users should note that an event beginning before midnight and continuing into the next day counts as two days towards the 21day limit.

12.1 Standard TEN's

A standard TEN must be given no later than ten working days before the event to which it relates. Where the Police or Environmental Health (EH) object to the TEN the applicant can agree to modify the TEN. If no agreement is reached, a hearing will be arranged before a panel of the licensing committee. Following the hearing the panel may decide to impose conditions where there is an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead.

Conditions can only be applied to a TEN:

- If the Police or EH have objected to the TEN;
- If that objection has not been withdrawn;
- There is a licence or certificate in relation to at least one part of the premises in respect of which the TEN is given;
- And the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions

12.2 Late TEN's

A 'late TEN' may be given up to five working days but no earlier than nine working days before the event is due to take place.

Where the Police or EH object to a late TEN, there is no provision for a hearing and the authority must serve a counter notice to prevent the event going ahead.

Key Message

Where events qualify for a Temporary Event Notice, applicants are encouraged to submit notifications at least 4 weeks in advance, but not more than 12 weeks before an event where an existing premises licence is in operation. For applications where there is not a premises licence, for example community events, 15 working days in advance of the event would be encouraged to allow for proper consideration of the event.

13 Applications made by Fylde Borough Council

The Licensing Authority wishes to continue to promote a broad range of entertainment within the borough, including live music, dancing, theatre and other entertainment. To promote this policy the council has obtained premises licences for a number of public spaces within the community.

This will encourage activities within these areas and ensure that full use of made of such facilities.

Should an application be received from a department within Fylde Borough Council, or by an organisation working in conjunction with Fylde Borough Council, members and 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.

14 The Licensing Objectives

The matters set out below under the headings of each licensing objective are intended to assist applicants by drawing attention to the issues that they should have in mind when drawing up an operating schedule. Although they will apply to all applications to some degree, they will not necessarily apply equally to all applications.

Special measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended, or likely, to attract larger audiences and/or audiences of a different nature. These can often have a significant impact on the achievement of the licensing objectives. Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.

They draw the attention of applicants to matters that are likely to be the subject of conditions designed to promote the licensing objectives that may be attached to a licence where the Licensing Authority's discretion has been engaged as a result of relevant representations.

Any application regarding licensing hours will, accordingly, be considered on its individual merits and this policy makes no presumption about closing times. In determining applications, the potential effect on the four licensing objectives will be paramount. Any premises that is open to patrons after midnight has the potential to negatively affect the licensing objectives, be it through noise, customers entering or leaving the vicinity, customers smoking outside the premises, litter or anti-social behaviour. With this in mind applicants should look carefully at the provision within the application for upholding the objectives.

Applicants should also refer to section 10 (conditions) for examples of conditions that will assist in promoting the licensing objectives.

Key Message

If representations are made, appropriate licence conditions may be applied, and these may be stricter if the application seeks to allow licensable activities after midnight.

14.1 Prevention of Crime and Disorder

The extent to which conditions should be introduced to control the matters detailed below will be dependent on the individual style and characteristics of the premises, proposed events and activities. In general, more comprehensive measures should be in place at late night entertainment venues or in premises with a history of crime and disorder issues.

14.1.1 Underage Drinking

The consumption of alcohol by persons under the age of 18 is recognised as a source of potential crime and disorder which also puts young people's health at risk. Children and young people can obtain alcohol from both on and off licence premises and therefore both carry equal responsibility to prevent such sales. Operating schedules should contain measures to ensure that the law and practice relating to age restricted sales is adhered to. This should include ensuring that staff have sufficient training and supervision to ensure that no alcohol is served to someone who is underage.

Key Message

We expect all licensed premises to have a policy in place and implement the Challenge 25 standard.

14.1.2 Drunkenness on Premises

Operating schedules should contain measure to prevent drunkenness on licensed premises. This should include ensuring that staff have sufficient training and supervision to ensure that no alcohol is served to someone who is drunk or to someone on behalf of someone who is drunk.

Key Message

We encourage all licensees to actively participate in any voluntary scheme to promote the responsible consumption of alcohol.

14.1.3 Pubwatch Schemes

We value the contribution that Pub Watch schemes make to the reduction of crime and disorder in licensed premises. Where such schemes (including 'Best Bar None' or 'Nightsafe') exist, licensees are encouraged to become active members including implementing any banning orders issued under the scheme. The pub watch scheme is run independently by licensees and supported by

council and police officers. It is a valuable resource and also helps premises support the licensing objectives, whilst addressing the issues of safety for employees on licensed premises.

Key Message

We actively support the local schemes and expect licensees to take an active part in them.

14.1.4 Drugs

We recognise that drug use is not something that is relevant to all licensed premises. However applicants should offer appropriate conditions as part of the application to assist in the prevention of drug use in their premises.

Key Message

We expect licensees of venues likely to be affected by illegal drugs to take all reasonable steps to prevent the entry, use and exchange of illegal drugs on a licensed premises. This should include regular checks of toilet areas, recording of incidents and suitable storage, disposal and transfer of confiscated and found drugs to the police.

14.1.5 Door Supervisors

We recognise that good security plans and provision can prevent crime and assist in the fight against young people unlawfully gaining entry or accessing alcohol.

When deciding if a condition requiring door supervisors is appropriate we will consider the location and capacity of premises and the hours of operation. Generally speaking, larger premises in town centres with several licensed premises close by will need door supervisors.

Key Message

We will expect relevant premises to have an adequate number of Licensed Door supervisors in line with an appropriate risk assessment.

14.1.6 CCTV

CCTV can be an important means of deterring and detecting crime at and immediately outside licensed premises. For appropriate premises, applicants are encouraged to consider the installation of CCTV at any licensed premises to assist with the protection of staff and the promotion of the licensing objectives.

Key Message

The applicant should identify in the operating schedule what systems of security, supervision by staff, and/or CCTV will be in place to promote the licensing objectives.

Any CCTV systems must be able to be accessed and downloaded at any time by a member of staff and hold at least 21 days of images, but preferably 31.

14.1.7 Glasses and Bottles

Glasses and glass bottles can be dangerous weapons. As such, we encourage the use of toughened or polycarbonate glassware in premises where the location or character of the premises justifies it.

14.1.8 Open Containers

Drinks purchased in licensed premises or clubs may only be taken from those premises for consumption elsewhere, if the licence/certificate permits off sales and only in sealed containers.

No bottles or glasses (sealed or unsealed) can be taken from a premises whose licence permits on sales only. This is to prevent the use of glasses and open bottles as offensive weapons in surrounding streets, after individuals have left the premises.

Key Message

The inclusion of the condition “No drink shall be removed from the premises in an unsealed container, should be included in the operating schedule for any premises licence or club certificate that permits off sales.”

14.2 Promotion of Public Safety

We are committed to protecting the physical safety of visitors to licensed premises. Members of the public have a right to expect that they will be able to visit licensed premises in safety. Licensees, as providers of premises for the sale of alcohol or regulated entertainment, will be expected to demonstrate that they have considered and put into effect measures to protect members of the public.

There is legislation that regulates the safety of customers and staff in addition to any provisions under the Act and these are identified at Appendix 5.

14.3 Prevention of Public Nuisance

Licensed premises have a significant potential to cause public nuisance. We recognise the need to prevent the occurrence of public nuisance from the operation of licensed premises, whilst balancing the rights of licensed premises to develop their business potential.

In considering what constitutes a public nuisance we will make a judgement as to whether the effect of the licensable activities on those living or working in the area around the premises is disproportionate or unreasonable. It is accepted that such disturbance could affect small numbers of people and does not need to

cause a major disturbance to the whole community. Issues which could be considered as public nuisance include noise, light pollution and litter.

14.3.1 Disturbance by Patrons Leaving the Premises

Although once patrons have left the curtilage of a licensed premises staff may not be able to deal with associated noise and disturbance, those managing the premises should take appropriate measures to minimise noise and disturbance.

Key Message

Notices should be placed at exits to ask patrons to respect neighbours and door supervisors employed at premises should encourage patrons leaving the curtilage of the premises to do so in an orderly manner.

14.3.2 Noise Nuisance

Conditions relating to noise nuisance will normally concern the measures necessary to control the levels of noise emanating from the premises. Any conditions necessary to promote the licensing objective will be tailored to the style and characteristic of particular premises and may include restrictions which ensure that the volume of amplified sound used in connection with entertainment is under the control of the licensee or management and that the controlling mechanism is operated from a part of the premises inaccessible to the public.

Conditions intended to deal with noise will normally be focused on the most sensitive periods. For example music is more problematical when it is played from late evening until the early hours of the morning when nearby residents are attempting to get to sleep. Areas used for smoking may lead to noise issues for nearby residents and where possible designated areas that are away from nearby residents should be used for smoking.

Key Message

Outside areas used for smoking should be monitored through the evening, with particular attention to hours after 22.00hrs. Door supervisors should monitor, limit numbers or corral customers in specific areas, where possible.

14.3.3 Beer Gardens

It is important to note that, although consumption of alcohol is not itself a licensable activity, if the plan does not show outside areas (e.g. beer gardens or similar) then any premises licence which authorises the sale of alcohol 'for consumption ON the premises' only, as opposed to 'on and off the premises' would not authorise the use of such areas.

Use of outside areas can cause nuisance to neighbours, so operators must make sure that staff regularly check that patrons using them are not causing a nuisance. Staff should ensure that glasses and bottles are collected regularly and are not permitted to build up.

Key Message

If an outside area falls within the licensed area it is expected that a condition will be included in the operating schedule as follows:

Any outside area used for the consumption of alcohol will cease to be used by patrons after 22.00hrs

14.3.4 Litter

The cumulative effects of litter around premises carrying on licensable activities can amount to public nuisance. We require that any premises that can cause litter, be it from a take away food establishment or cigarette debris left by its customers, must remove it at regular intervals.

This is essential for any type of licensed premises (including takeaways) which has a terminal hour of midnight and beyond.

Key Message – All Premises

Any area used for smoking by patrons must be supervised and cigarette debris cleared away on a regular basis, including at the end of trading.

Key Message – Take Away Premises

Premises must provide suitable litter bins for customers to dispose of litter and these must be emptied regularly.

14.4 Protection of Children From Harm

We are committed to protecting children from moral, psychological and physical harm. In particular, we seek to protect children from exposure to strong language, sexual expletives and adult entertainments.

14.4.1 Proof of Age Schemes

We consider that preventing children from obtaining alcohol from licensed premises to be of great importance in protecting them from harm. We expect applicants to demonstrate that they have made satisfactory arrangements to prevent sales of alcohol to children including an appropriate proof-of-age scheme. We support arrangements which include using the following documents to verify the age of customers:

- Photo Card driving licence issued in the European Union

- Proof of Age Standards Scheme Card (PASS)
- Official ID card issued by the HM Forces or by a European Union country bearing a photo and date of birth of holder

We support the PASS accreditation system, which aims to approve and accredit various proofs of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. Staff should have received suitable training in relation to the proof of age scheme to be applied upon the premises and records evidencing this should be kept.

14.4.2 Exposure to Adult Behaviour

We consider that children should not be exposed to entertainments of a sexual nature or to strong language. Conditions may be imposed, if representations are received, aimed at preventing such exposure either intentionally or accidentally. In some premises entertainment of an adult nature may be occasional or restricted to certain times of the day. In these cases, any restrictive conditions to protect children will apply only at these times.

When submitting an application, if no reference is made to the provision of adult entertainment or services within an operating schedule at “Box N”, then we will interpret this to mean that such entertainment will not be provided and apply a condition to this effect to the licence.

The Licensing Authority will have particular regard to representations from the responsible authority consulted with regard to the protection of children, to ensure that children are adequately protected.

Key Message

A new or variation application will not normally be granted where a representation expresses serious and justified concern regarding child protection or safety, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

In the case of premises giving film exhibitions, we will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Censors or the Licensing Authority itself.

15 Regulated Entertainment

15.1 Live Music

We recognise the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of the community and in particular, for children and young people.

When considering applications for such events and the imposition of any conditions if representations are received on licences or certificates, we will carefully balance the need to promote the licensing objectives against these wider cultural benefits.

Background live and recorded music is not a licensable activity. However,

- Karaoke is generally classed as a performance of live music
- A backing track, drum beat or band that accompanies live singer(s) is classed as amplified live music

Any performance of dance of a sexual nature will require a licence.

15.2 Exemptions

Due to legislative changes there has been a partial de-regulation of regulated entertainment, and the exemptions are noted below:

| | timings | days | audience | Premises | Notes |
|------------------------|-------------------------|-------------|-----------------------|---|---|
| Live unamplified music | Between 08.00 and 23.00 | any | Less than 500 persons | any | |
| Live amplified music | 08.00 and 23.00 | any | Less than 500 persons | Alcohol on-licensed premises* | Premises must be open and alcohol available for purchase under the terms of the licence |
| Live amplified music | 08.00 and 23.00 | any | Less than 500 persons | Non-licensed workplace | |
| Live amplified music | 08.00 and 23.00 | any | Less than 500 persons | Non-licensed Church hall, village hall, | Consent required from person responsible for premises |

| | | | | | |
|------------------------------|-----------------|-----|-----------------------|---|---|
| | | | | community hall or similar | |
| Live amplified music | 08.00 and 23.00 | any | Less than 500 persons | Non-licensed residential premises of a local authority, hospital, | Consent required from organisation responsible for premises |
| Recorded music | 08.00 and 23.00 | any | Less than 500 persons | Alcohol on-licensed premises | Premises must be open and alcohol available for purchase under the terms of the licence |
| Recorded music | 08.00 and 23.00 | any | Less than 500 persons | Non-licensed Church hall, village hall, community hall or similar | Consent required from person responsible for premises |
| Recorded music | 08.00 and 23.00 | any | Less than 500 persons | Non-licensed residential premises of a local authority, hospital, | Consent required from organisation responsible for premises |
| Any regulated? entertainment | 08.00 and 23.00 | any | Less than 500 persons | Local authority premises, hospital, school | Entertainment provided by the local authority, health care provider or school |
| Plays | 08.00 and 23.00 | any | Less than 500 persons | Any premises | |
| Dance | 08.00 and 23.00 | any | Less than 500 persons | Any premises | |
| Films | 08.00 and 23.00 | any | Less than 500 persons | Community premises | Not for profit event |

| | | | | | |
|--|-----------------|-----|------------------------|---|---|
| | | | | | Consent required from organisation responsible for premises Screening is suitable for age of attendees |
| Indoor sporting events | 08.00 and 23.00 | any | Less than 1000 persons | Any premises | |
| Greco-Roman wrestling or Freestyle wrestling | 08.00 and 23.00 | any | Less than 1000 persons | Any premises | |
| Travelling circuses | 08.00 and 23.00 | any | No limit | Any moveable structure that the audience is held within | Circus may not be located on same site for more than 28 days |

16 Personal Licences

Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off the premises for which a premises licence is in force for the carrying on of that activity.

Any individual may apply for a personal licence whether or not they have current employment or business interests associated with the use of the licence.

We require every application for a personal licence to be accompanied by a standard Disclosure from Disclosure Scotland, a pass certificate from a recognised training provider, application form, 2 photographs (one endorsed), application form and fee.

Key Policy

Any disclosure presented must not be more than one month old, to ensure currency of data.

Should the application present any relevant convictions then the police will be contacted and should an objection be submitted a hearing will be held to determine the application.

Following the grant of a personal licence, should the licence holder be convicted by a court for a relevant offence, the holder must notify us. On receipt of such a notification, we will record the details on file for future reference. The personal licence holder must also notify the court at the time of conviction that he/she holds such a licence.

A personal licence does not need to be renewed. However, the holder must inform us of any change of address or name to enable the licence to be updated. It is an offence under the Act not to do so.

17 Designated Premises Supervisor (DPS)

17.1 Role of the DPS

The holder of a premises licence which permits the sale of alcohol must nominate a personal licence holder as a Designated Premises Supervisor. The DPS will then be responsible for the day to day running of the premises. Whilst it is not essential for the DPS to be at the premises the whole time that alcohol is being sold, they should visit the premises regularly and be able to attend the premises in the case of an emergency.

Where the DPS is not available at the premises for whatever reason, an individual should be nominated as a point of contact who will have details of where the DPS can be contacted.

The statutory guidance indicates that a DPS may supervise more than one premises, however, they must be able to ensure that the four licensing objectives are properly promoted and that all the premises supervised comply with licensing law and licence conditions.

There is no requirement for a person to be named as a DPS on a Club Premises Certificate or where an application has been applied for and granted to dis-apply the DPS at a community premises.

Key Message

It is expected that a DPS supervising two or more premises is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence. The geographic location of the premises may be taken into consideration.

17.2 Authorisation of Alcohol

The fact that every sale/supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make such sales or that they must be personally

present at every transaction. A personal licence holder may authorise others to sell alcohol under their supervision and may then occasionally be absent at times from the premises when such a transaction takes place. Such authorisations should be given in writing and only to those persons who have been given sufficient training to ensure that the four licensing objectives are not compromised. The personal licence holder will, nevertheless, not be able to escape responsibility for the actions of those he authorises to make such sales.

At least one personal licence holder would normally be expected to be on the premises when alcohol is being sold but if a personal licence holder is not on the premises for any reason, provision should be made for the immediate contact of the personal licence holder or Designated Premises Supervisor in the event of an emergency.

18 **Need for Licensed Premises**

We will not consider the need for licensed premises in our decision-making. Need is for planners and the commercial decision-makers to consider. We will not seek to impose a ceiling on the number of licensed premises either overall or by class of premises, either by use of policy or practice.

19 **Cumulative impact of a concentration of licensed premises**

We acknowledge 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 to increase crime, anti-social behaviour, noise pollution, littering and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure but this may not be attributable to any individual premises.

A licensing authority may adopt a Cumulative Impact Policy (CIP) for an area or areas that issues are being experienced by residents, visitors or agencies, due to the number of licensed premises in that area. Evidence should be obtained as to the nature and location of the issues occurring and a thorough consultation must take place, before the licensing authority can decide whether such a policy is appropriate. It will then form part of the authority's Statement of Licensing Policy.

The CIP creates a rebuttable presumption that new or varied applications for premises licences or club premises certificates that will add to the existing cumulative impact will normally be refused. However in order for this to be effective, a representation must be received first,

otherwise an application will be granted, as applied for, under delegated powers.

The licensing authority recognises that such a policy cannot be absolute and if a policy were to be adopted it would still continue to consider each application properly on its own merit. For licences that were unlikely to add significantly to the problems of saturation, the application could be approved, despite being in a CIP area.

Any discussion concerning the possible introduction of such a policy will also look at the alternatives to such a policy, to see if they might either achieve the same objective or be a complement to such a policy.

Where there is no cumulative impact policy, there is no presumption against the grant of new licences. Nevertheless, the presence of other licensed premises in the area of the premises for which an application has been made and the future operation of premises which are due to open in the surrounding area are matters which may be raised by those making representations and if those representations are pertinent to the licensing objectives, it will have a bearing on the decision making process.

In the absence of a Cumulative Impact Policy, we may still consider representations where a body or person believes that an application (new or varied) will have a negative impact on one or more of the licensing objectives. If cumulative impact is being highlighted as the reason for an objection, the responsible authority or other person will be expected to state why the application will impact on the area of concern, what the implications will be and if possible produce examples or evidence.

It may be that the type of premises or offering will attract more people into an already busy and problematic area, therefore impacting on the licensing objectives that address disorder and/or nuisance.

Key Message

We encourage applications for restaurants and other predominantly seated venues which do not adversely impact upon the licensing objectives in contrast to those that predominantly offer vertical drinking. Applications should demonstrate how the licensing objectives are to be promoted.

20 Enforcement

20.1 General Enforcement

We believe that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. We will therefore enforce incrementally and reviews will mainly be reserved for circumstances where early warnings of concerns and the need for improvement have gone unheeded by the management of the licensed premises.

20.2 Complaints Against Licensed Premises

We will investigate all complaints against premises licensed by us, sometimes in conjunction with other agencies. If the complaint is justified, we will initially endeavour to seek a resolution through informal means, but adopt an incremental approach to compliance.

If we consider it appropriate, we may pass a complaint on for investigation by another statutory agency.

We will liaise with the police and other responsible authorities on enforcement issues, to provide for a more efficient deployment of our staff and police officers. This will allow us to target problem and high-risk premises which require greater attention, while providing a lighter touch in respect of those low-risk premises that are well run.

The Lancashire County Council Trading Standards Service and the Police enforce the legislation that imposes a lower age limit on customers purchasing alcohol. Such sales to under-age customers are a matter of particular concern to both these organisations and we share this concern. We will co-operate with these agencies in seeking to deal with the issues of excessive consumption of alcohol, binge drinking and underage drinking in so far as it is able to do so within the law.

21 Reviews

At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person may apply to the licensing authority to review the licence or certificate. The written review application should relate to the adverse impact that the premises is having on one or more of the licensing objectives. We must reject any request for a review if the reason does not relate to one or more of the four licensing objectives. Evidence to highlight the areas of concern should be included to give members sufficient information on which to base a decision.

We must reject a request for review if we consider the grounds to be frivolous, vexatious or repetitive. Repetitive grounds are those, which mirror those considered at a previous hearing.

There is opportunity within the 28 day period following submission of the review to the licensing authority for support to be given by other persons or a responsible authority.

Any review will take place before a licensing panel. The panel Authority will consider the full range of powers available to it on the review of a premises licence.

At the review application hearing the panel has the power to select from the following options:-

- revoke the licence/certificate
- suspend the licence/certificate for a period of up to 3 months
- remove the DPS
- add additional conditions
- amend existing conditions
- remove one or more licensable activities
- change licensing hours

Suspension of a licence/certificate may be considered in some circumstances to allow the premises time to look at procedures, staffing, conditions and general management of the premises. The suspension period can be used to rectify issues that led to the review and to prevent further occurrences.

Key Message

The licensing committee will view all repeat sales of alcohol to children gravely and should an application for a review of the licence be brought to a hearing, members will always consider revocation of the licence alongside other options.

22 Late Night Levy

We can introduce a Late Night Levy across its area by virtue of section 125 of the Police and Social Responsibility Act 2011. A levy would empower the licensing authority to charge licence/certificate holders that supply alcohol late into the night for the extra enforcement costs that can be created for the police and the licensing authority by late night trading. Any such levy would apply to all licensed premises supplying alcohol between midnight and 6.00am save for any category of premises exempted by the licensing authority.

The Police would receive at least 70% of the revenue generated by levy with the Licensing authority receiving the remaining 30%.

Before a Late Night Levy can be introduced, we would be required to consult with police and licence/certificate holders that supply alcohol after midnight in accordance with the appropriate regulations.

There is currently no Late Night Levy in Fylde.

23

Early Morning Alcohol Restriction Order (EMRO)

The Police Reform and Social Responsibility Act 2011 (the 2011 Act) amends existing provisions to allow EMROs to be applied more flexibly between midnight and 6am. It is proposed that licensing authorities will be able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. However, it is believed that some types of premises should not be subject to an EMRO.

EMROs are designed to address recurring problems with alcohol-related crime and disorder in specific areas. The licensing authority will be able to decide during which hours the EMRO will apply, whether it is applied every day or on particular days; whether it will run for a limited or unlimited period; and whether it will apply to whole or part of the licensing authority's area. In each case, the decision will be based on what is appropriate for the promotion of the licensing objectives.

There may however be alternative measures that can be taken with problem premises ie review or in extreme cases closure orders issued by the Police which should be considered before introducing an EMRO.

The licensing authority must ensure it has necessary evidence to demonstrate that the decision to introduce an EMRO is 'appropriate' for the promotion of the licensing objectives.

23.1 Process

The licensing authority sets out the basis for the proposed order in a document which should be posted on the licensing authority website. Evidence must be obtained (mainly from the police) and a 28 day consultation period will follow with all premises licence holders in the borough, all the responsible authorities and neighbouring Local Authorities. Representations will be collated both for and against the proposals. These will be included in a report for the Licensing Committee. If satisfied that the proposed order is 'appropriate' for the promotion of the licensing objectives, the authority will have the order

approved by full council. The final order must be no different to the original order proposed.

23.2 Exemptions

Premises with overnight accommodation, restaurants, theatres and cinemas, casinos and bingo halls. Community amateur sports clubs and Community premises that have requested to remove the mandatory requirement to have a DPS.

APPENDIX 1

Contact details for Responsible Authorities

Contact details for Licensing Authority:

Licensing Department

Fylde Borough Council

Town Hall

Lytham St Annes

Lancashire

FY8 1LW

Email: licensing@fylde.gov.uk

Tel 01253 658658

Contact details of responsible authorities:

| Responsible authority | Address |
|--|---|
| Health & Safety Environmental Protection Planning | C/O Licensing Department Fylde Borough Council Town Hall Lytham St Annes Lancashire FY8 1LW Email: licensing@fylde.gov.uk Tel 01253 658658 |
| Police | Police Licensing Officer Lancashire Constabulary Licensing Department Western Divisional HQ Bonny Street Blackpool FY1 5RL |
| Fire Authority | Technical Fire Safety Lancashire Fire and Rescue St Andrews Road North Lytham St Annes FY8 2JQ |
| Protection of Children | Childrens' Services Room B15A First floor County Hall Preston PR1 8 XJ |

Trading standards

Principal Trading Standards Officer
Lancashire Trading Standards
58-60 Guildhall Street
Preston PR1 3PR

Public Health

Lancashire County Council
Public Health LICENSING
First floor
Christ Church Precinct
County Hall
Preston
Lancashire
PR1 8XJ

APPENDIX 2

Table of delegations in respect of licensing authority functions

The delegation of decisions and functions will be as follows:

| Matter to be dealt with | Full Committee/ Sub Committee | Officer Delegation |
|--|--------------------------------------|---------------------------|
| Application for personal licence | If police objection is made | All other cases |
| Application for Premises Licence/Club Premises Certificate | If a relevant representation is made | If no representation made |
| Application for provisional statement | If a relevant representation is made | If no representation made |
| Application to vary Premises Licence/Club Premises Certificate | If a relevant representation is made | If no representation made |
| Application to vary Designated Premises Supervisor | If a police objection is made | All other cases |
| Minor Variation Application | | All cases |
| Applications to disapply the mandatory conditions | If a Police representation is made | All other cases |
| Request to be removed as Designated Premises Supervisor | | All cases |
| Application for transfer of Premises Licence | If a police representation is made | All other cases |
| Applications for Interim authority | If a police representation is made | 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 an objection to a temporary event notice | All cases unless all parties agree to conditions | Where all parties agree to the imposition of conditions |
| Decision as to whether to withhold some or all of an interested party's personal details from the applicant. | | All cases |
| Decision to suspend a premises licence/club certificate for failure to pay the annual fee or late night levy | | All cases |

APPENDIX 3

Glossary of terms

| | |
|--|---|
| The Act | Means the Licensing Act 2003. |
| Alcohol | Includes spirits, wine, beer, cider, or any other fermented, distilled, or spirituous liquor of or exceeding 0.5% alcoholic strength at the time of sale. |
| Appeals | Appeals against decisions of the Licensing Authority are to the magistrates' court for the area in which the premises are situated. The appeal must be lodged in 21 days. On appeal a magistrates' court may, dismiss the appeal; substitute its own decision; remit the case to the Licensing Authority with directions; and make an order for costs. |
| Authorised Persons, Other Persons and Responsible Authorities | The Act creates three categories of people/bodies that can make representations to a Licensing Authority about an application for a licence. "Authorised persons" are specified people who have statutory duties in relation to the inspection of premises, e.g. fire, health and safety. "Other Persons" covers any individual, body or business entitled to make a relevant representation. "Responsible Authorities" include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection, the health authority and the licensing authority. |
| Closure Order | Powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to seek court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance. |
| Club Premises Certificate | A certificate which licences a qualifying club for the sale/supply of alcohol. It can be granted to members clubs which comply with specific conditions e.g. membership rules, run by club committees, profits go to members not an owner etc. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended. |
| Designated Premises Supervisor | The person designated in the premises licence as the person who is responsible for supervision of the premises e.g. the day-to-day manager. Any premises |

where alcohol is supplied as a licensable activity must have a designated premises supervisor.

| | |
|----------------------------------|---|
| The Guidance | The Statutory Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. This is updated at regular intervals to reflect changes in legislation. |
| Interim Authority Notices | Where a premises licence lapses due to the death, incapacity or insolvency etc of the holder, specified persons can within 7 days serve an interim authority notice on the Licensing Authority. This revives the licence, subject to police objection, for a period of up to 2 months so the premises can continue trading. |
| Late Night Refreshment | Supply of hot food or hot drink between 11pm and 5am whether for consumption on or off the premises e.g. will cover late night takeaways and fast food outlets but also restaurants open after 11pm |
| Licensable Activities | Activities that must be licensed under the Act: The sale by retailers of alcohol; supply of alcohol by a club; provision of regulated entertainment; provision of late night refreshment |
| Licensing Authority | Local authorities (district or county councils). In the context of this document Fylde Borough Council |
| Licensing Committee | A committee of at least 10 but not more than 15 members of the local authority. May have one or more sub-committees consisting of at least three members |
| Licensing Objectives | The objectives of licensing set out in the Act: The prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives. |
| Licensing Panel | A committee of 3 councillors appointed from the licensing committee to whom the functions of the licensing committee can be delegated under the Act. |
| Mandatory Conditions | Conditions imposed on all premises licences and club premises certificates. The Secretary of State may add to these at any time and they are written in to each licence/certificate appropriately. |
| Objection Notice | A procedure whereby the police can object to the grant of a personal licence on the grounds that where having regard to convictions of the applicant for relevant offences, the grant would undermine the crime prevention objective |
| Operator | Includes all premises licence holders, club premises certificate holders and designated premises supervisors. |

| | |
|--------------------------------------|---|
| Operating Schedule | A document in a prescribed form that sets out information about how the applicant for a premises licence intends to operate his business. It sets out information such as the relevant licensable activities, the proposed licensed hours, any other opening hours, the name of the proposed premises supervisor and steps which it is proposed to take to promote the licensing objectives. Where an applicant for a premises licence submits an operating schedule, and there are no relevant representations (objections), the local authority licensing committee must grant the application and can impose only those conditions on the licence that are consistent with the operating schedule. |
| Personal Licence | A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is also not required for the supply of alcohol in a club which holds a club premises certificate. Only the police can object to the grant of a personal licence. |
| Premises Licence | A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities. Has effect until revoked, surrendered or death, insolvency etc of the holder. Applications dealt with by the local authority licensing committee in the area where the premises are situated. |
| Provisional Statement | A procedure by which the Licensing Authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed. |
| Regulated Entertainment | Specified entertainment that takes place in the presence of an audience for their entertainment; performance of a play, exhibition of a film, indoor sporting event, performance of live music, playing of recorded music, performance of dance, other entertainment similar to music and dancing. |
| Relevant Offences | Offences relevant to the consideration of an application for the grant of a personal licence and about which the police may serve an “objection notice”. The offences are listed in schedule 4 of the 2003 Act and generally relate to drink, dishonesty, drugs, duty, copyright, food safety, sexual offences & violence. |
| Statement of Licensing Policy | Each Licensing Authority must every five years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review. |

Transfer

A procedure where an application can be made to transfer the premises licence into a new name e.g. if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.

Variation

Changes in the operation of a premises, club or event, including variation of operating hours and modification of the premises or the specification of another person as the Designated Premises Supervisor.

APPENDIX 4

Mandatory conditions applied to licences and club premises Certificates

Mandatory conditions where licence authorises the supply of alcohol

- (1) No supply of alcohol may be made under the premises licence –
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (2) The supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Condition where the licence permits the performance of Films

Where a programme includes a film in the 12A, 15 or 18 category, as classified by the British board of Film Classification, no person appearing to be under the age of 12 (and unaccompanied in that case), 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms-

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE
ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on duty provided the prior written consent of the person's parents or legal guardian has first been obtained.

Mandatory conditions where Door Supervisors are provided

All individuals who carry out security activities must be licensed by the Security Industry Authority (SIA)

Mandatory Conditions for club Premises with off sales

- 1) The supply of alcohol for consumption off the club premises must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

2) Any alcohol supplied for consumption off the premises must be in a sealed container.

3) That any supply of alcohol for consumption off the premises must be made to a member of the club in person.

Mandatory conditions effective from 6 April 2010 where the licence or club premises certificate permits the sale or supply of alcohol for consumption on the premises

1.—(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following

activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

- (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Mandatory conditions effective from 1 October 2010 where the licence or club premises certificate permits the sale or supply of alcohol for consumption on or off the premises

4 (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Mandatory conditions effective from 1 October 2010 where the licence or club premises certificate permits the sale or supply of alcohol for consumption on the premises

5 The responsible person shall ensure that–

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures–

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures

Licensing Act 2003 (Mandatory Licensing Conditions) Order May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
 4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price

on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

APPENDIX 5

The Licensing Act 2003 may be amended periodically by legislation, however there are a number of Acts and statutory regimes that also impact on licensed premises, as below.

Other relevant legislation (correct at time of print)

1. Planning Legislation and Building Regulations

The planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing applications will not be a re-run of the planning application. The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building regulation control where appropriate.

2. Health and Safety at Work Act 1974 and associated legislation

Fylde Council is the authority for this legislation for most licensed premises in the area.

3. Human Rights Act 1998

Fylde Council has a duty under the European Convention on Human Rights to protect both the rights of a resident to privacy and family life (Article 8) and the rights of a licensee to operate their business without undue interference (Article 1 of the First Protocol). These policies are intended to reflect the balance to be struck between these interests where they conflict.

4. Disability Discrimination Act 2005

The Disability Discrimination Act introduced measures to tackle discrimination encountered by disabled people. It is recommended that licensees make themselves familiar with the requirements of this Act for the access and provision of services to disabled people.

5 Crime and Disorder Act 1998 Section 17

This Act requires local authorities and others to consider crime and disorder reduction while exercising all of their duties. It states, *“Without prejudice to any other obligation imposed upon it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area”*.

This reflects the reality that there are crime and/or disorder implications in decisions made across the full range of local authority services. The consideration of the specific

licensing objective of the prevention of crime and disorder fulfils the requirement under this Act.

6. Criminal Justice and Police Act 2001

This Act introduces provisions for combating alcohol related disorder giving the local authority and/or the police the powers to prohibit alcohol consumption in designated public places, to close certain licensed premises due to disorder or disturbance and to close unlicensed premises.

7. Policing and Crime Act 2009

This Act introduces measures to tackle alcohol misuse.

8. Environmental Protection Act 1990

This covers a wide range of types of pollution including noise pollution.

9. The Clean Neighbourhoods and Environment Act 2005

This provides local authorities with an additional power to issue a fixed penalty notice to any licensed premises emitting noise that exceeds the permitted level between the hours of 11.00pm and 7.00am.

10. Anti-Social Behaviour Act 2003

Sections 40 and 41 of the Act provides that if the noise from a licensed premise is causing a public nuisance, an authorised environmental health officer will have the power to issue a closure order effective for up to 24 hours. This compliments the police powers under Part 8 of the 2003 Act to close licensed premises for temporary periods.

11. Health Act 2006 (Workplace Smoking Ban)

The ban on smoking in all enclosed work places and public places came into force on the 1 July 2007. The ban includes smoking in pubs, restaurants and members clubs where bar or other staff are employed.

12. The Regulatory Reform (Fire Safety) Order 2005

Lancashire Fire and Rescue Service enforce fire safety legislation. The Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order') replaces previous fire safety legislation.

13. Race Relations Act 1976 (as amended 2000)

Local authorities have a legal obligation to have regard to the elimination of unlawful discrimination; promote equality of opportunity and good relations between persons of different racial groups.

14. Data Protection Act 1998

Applicants should have regard to the provisions of the Data Protection Act 1998 in relation to their premises and in particular to the Information

The boundary of Fylde Borough Council is detailed below.



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Our Ref:Chris Hambly

