



FYLDE BOROUGH COUNCIL



## Meeting Agenda

**Policy & Service Review  
Scrutiny Committee  
Town Hall, Lytham St. Annes  
25 October 2007, 7:00pm**

**The main doors to the Town Hall will be open to the public at  
6:40pm**

# **POLICY & SERVICE REVIEW SCRUTINY COMMITTEE MEMBERSHIP**

CHAIRMAN	Fabian Wilson
VICE-CHAIRMAN	John Prestwich

## **Councillors**

Karen Buckley	Cheryl Little
Thomas Threlfall	William Thompson
Tony Ford	Peter Collins
Elizabeth Oades	

Contact: Tracy Scholes, St. Annes (01253) 658521  
Email: [tracys@fylde.gov.uk](mailto:tracys@fylde.gov.uk)



## **CORPORATE OBJECTIVES**

The Council's investment and activities are focused on achieving our five key objectives which aim to :

- Conserve, protect and enhance the quality of the Fylde natural and built environment
- Work with partners to help maintain safe communities in which individuals and businesses can thrive
- Stimulate strong economic prosperity and regeneration within a diverse and vibrant economic environment
- Improve access to good quality local housing and promote the health and wellbeing and equality of opportunity of all people in the Borough
- Ensure we are an efficient and effective council.

## **CORE VALUES**

In striving to achieve these objectives we have adopted a number of key values which underpin everything we do :

- Provide equal access to services whether you live in town, village or countryside,
- Provide effective leadership for the community,
- Value our staff and create a 'can do' culture,
- Work effectively through partnerships,
- Strive to achieve 'more with less'.



## A G E N D A

ITEM	PAGE
<b>1. DECLARATIONS OF INTEREST:</b> <i>In accordance with the Council's Code of Conduct, members are reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.</i>	4
<b>2. CONFIRMATION OF MINUTES:</b> <i>To confirm as a correct record the Minutes of the Policy &amp; Service Review Forum held on 23 August 2007 attached at the end of the agenda.</i>	4
<b>3. SUBSTITUTE MEMBERS:</b> <i>Details of any substitute members notified in accordance with council procedure rule 26.3</i>	4
<b>4. MAYORALTY</b>	7 – 14
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**Personal interests**

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
  - (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (i) any employment or business carried on by you;
  - (ii) any person or body who employs or has appointed you;
  - (iii) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
  - (iv) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
  - (vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (vii) any land in your authority's area in which you have a beneficial interest;
  - (viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (ix) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

**Disclosure of personal interests**

9.—(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

**Prejudicial interest generally**

- 10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of—
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and
    - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committees**

- 11.—** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Effect of prejudicial interests on participation**

- 12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
DEMOCRATIC SERVICES AND MEMBER SUPPORT	POLICY AND SERVICE REVIEW SCRUTINY COMMITTEE	25 OCTOBER 2007	4

## MAYORALTY

### Public Item

This item is for consideration in the public part of the meeting.

### Summary

The Chief Executive wrote to all members in May of this year regarding there being no written policy on what the sequence of events should be in examples such as where the Mayor steps down during the year from being a councillor, does not get elected in an election year (as was the case in 2007) or in the unfortunate circumstances if an incumbent Mayor was to become seriously ill or pass away during his/her year of office. In addition, there are no guidelines to stipulate if an elected member should be eligible to be Mayor for a second term of office if they have held the position previously.

It is suggested that there should be no change in the seniority list as it is presented as this has been developed on past traditions and conventions existing up until now. However, following on from any recommendations made to and accepted by Cabinet on this matter, the new protocols be adopted as part of the Council's Policy on the operation of the Mayoralty.

### Recommendation

That members consider the series of questions below and make recommendations to the Cabinet on this matter.

## **Cabinet Portfolio**

The item falls within the following Cabinet portfolio:

Corporate Performance and Development      Councillor Sue Fazackerley

### **Report**

1. The current arrangements for selecting the Mayor are that the Council moves and seconds a Mayor Elect prior to the forthcoming Municipal Year and this appointment is confirmed officially each year at the Annual Meeting of the Council which is held in May. Prior to the Annual Meeting, the Mayor Elect proposes to the Council their personal recommendation for the position of Deputy Mayor upon which the Council is requested to confirm its acceptance. The position of Deputy Mayor is also confirmed at the Annual Meeting of the Council.
2. The selection of the Mayor is based on a method of order of seniority and the current order is attached as an appendix.
3. The arrangements which the council has are a convention only and it is open to the Council to elect any councillor to be Mayor. However, the arrangement of the use of selection based on longevity has served the Council well but there are a number of questions which the Committee is requested to consider and make recommendations. The Local Government Act 1972 deals with certain circumstances where the office of Mayor becomes vacant and these are if the Mayor dies in office, resigns during their term of office, ceases to be qualified as an elected member or fails through six consecutive months to attend any meeting of the council. In all these circumstances an election for the post must be held not later than the next ordinary meeting of the Council (i.e. decided upon at the next available meeting of the Council through a vote of elected members). However there are other circumstances beyond these factors and these are detailed below with options for the Committee to consider:

#### ***What should be the sequence of events in an election year when the Mayor Elect is not re-elected?***

Options

- Offered to another member at the Leaders discretion based on availability at short notice and willingness to take up the position
- Offered to the next member on the seniority list. If declined the list is followed until an acceptance is received
- Offered to the Deputy Mayor Elect and if he/she were not be re-elected then offered the next person on the seniority list and if offer declined, list followed until an acceptance is received. If the Deputy Mayor accepts the position, they be invited to propose their own Deputy to the Council for approval

#### ***What should happen if in normal circumstances a member becomes eligible for office on the seniority list but declines the position?***

Options

- That it be ascertained if they wish to decline the position of Mayor permanently and if so their name be placed at the bottom of the list with this intent stated (as with Councillor John Bennett)



- That if they still wish to be offered the position then their name is moved to the top of the list for the following year

***Should a councillor be eligible to become Mayor for a second time?***

Options

- That once a member has held the office of Mayor that they are placed at the bottom of the seniority list and subject to longevity of service then may become eligible to hold the office again
- That once a member has held the office of Mayor that they are automatically removed from the longevity of service list for the mayoralty and cease to be considered for the position in the future

***When a number of members are eligible to become Mayor at the same time, it has been tradition that they agree amongst themselves the order in which the office of Mayor will be held or a ballot will be held. Do members wish to endorse this approach?***

Options

- That when councillors become eligible for the office of Mayor in the same year they agree amongst themselves the order in which the position should be held
- If agreement cannot be reached amongst those becoming eligible for the office of Mayor at the same time, then in the year preceding their year of office, the current Mayor be requested to conduct a draw to determine the order in which the office should be held

***What should happen when a member has requested that they are placed at the bottom of the seniority list and are not be to considered for the position and then through a change of circumstances determine that they wish to be included in the seniority list?***

***Options***

- That they be inserted into the list at a point agreed by the Leader/Chief Executive (as has been the case with Councillor Bill Thompson)
- That they be included within the list but join the list at the bottom
- That they be included within the list and are placed at a position as would have been their original ranking
- That they be placed in the list at a mid point between what would have been their original ranking and the bottom of the list

**What should happen in those circumstances where a member has broken service? Those members who currently have broken service are placed at a**

**higher ranking in recognition of this (Councillors George Caldwell and Keith Beckett)**

Options

- That the member joins the list as at the most recent term of office (year) in which they were elected at the same ranking as other members elected in that year
- That the member joins the list at the most recent term of office they were elected but is elevated to a higher ranking than those elected at the time
- That the member re-joins the point at which they first stated their term of office with the Borough Council

IMPLICATIONS	
Finance	No direct implications
Legal	Local Government Act 1972 applies (Section 88)
Community Safety	No direct implications
Human Rights and Equalities	No direct implications
Sustainability	No direct implications
Health & Safety and Risk Management	No direct implications

Report Author	Tel	Date	Doc ID
Tracy Scholes	(01253) 658521	Date of report	10 October

List of Background Papers		
Name of document	Date	Where available for inspection
Document name		Council office or website address

**Attached documents**

- 1. Chief Executives letter of 23 May 2007**
- 2. Seniority list**

To: All Councillors

*Our Ref:* PW/MM/  
*Your Ref:*  
*Please ask for:* Mr P Woodward  
*Tel:* 01253 658500  
*Email:* phillipw@fylde.gov.uk  
*Date:* 23<sup>rd</sup> May 2007

Dear Councillor,

**Re: Fylde Borough Mayoralty**

At the Council's Annual Meeting on 16<sup>th</sup> May a request was made for me to circulate the 'order of seniority' of the 51 elected Members of the Council as it now stands after the recent elections. Please find this attached.

By way of explanation I would make the following points regarding the existing arrangements.

I am advised that the tradition has been either for personal agreement to be struck or a ballot to be held between councillors elected at the same time in order to determine the precise sequence. For example, during the municipal year 20010/11 a ballot will be held between Councillors Ashton, Mulholland and Oades to determine the sequence for the three years from 2011/12 onwards unless one of these Members rules themselves out. You will note from the attached table that Councillor Bennett has already ruled himself out.

There is no written consideration on what sequence of events should be followed in circumstances, for example, where the Mayor steps down as a Councillor during the year, does not get elected in an election year (as has recently happened), if a Member is eligible to become Mayor for a second time or, indeed, if an incumbent Mayor dies during the year of office.

The question as to whether any more formal written protocol covering these circumstances is necessary is perhaps something which is worthy of further consideration by one of the Council's Overview and Scrutiny Committees. Therefore my recommendation would be that this matter is placed on the agenda of the next Scrutiny Management Board where its future can be determined.

Please note that the arrangements set out above are a convention only. Under the Local Government Act 1972 the council may elect any councillor to be mayor, regardless of any convention or protocol.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'P. Woodward'.

Phillip Woodward  
Chief Executive

## FYLDE BOROUGH COUNCIL MAYORALTY

	<b>COUNCILLOR</b>	<b>DATE ELECTED</b>
1	SUSAN FAZACKERLEY	1987
1	PAUL RIGBY	1987
3	BILL THOMPSON (originally ruled himself out but reinstated by agreement)	1973
4	TIM ASHTON	1991
4	KIRAN MULHOLLAND	1991
4	LIZ OADES	1991
7	LOUIS RIGBY (has already been Mayor in 91/92)	1976
8	TOM THRELFALL	1995
8	HOWARD HENSHAW	1995
10	GEORGE CALDWELL (has already been Mayor in 95/96)	1973 (broken service 1979-1983)
11	ROGER SMALL	1997
12	DAWN PRESTWICH (has already been Mayor in 97/98)	1977
13	JANINE OWEN	1999
13	LINDA NULTY	1999
13	HEATHER SPEAK	1999
13	PETER HARDY	1999
13	JOHN L. COOMBES	1999
13	BARBARA PAGETT	1999
13	KEVIN EASTHAM	1999
13	SIMON RENWICK	1999
21	PAUL HAYHURST (has already been Mayor in 91/92)	1979
22	CHRISTINE AKEROYD	2002
22	JOHN PRESTWICH (Mayor 2007/08)	2002
23	PATRICIA FIELDHOUSE (has already been Mayor in 2002/03)	1979
24	MAXINE CHEW	2003
24	ELIZABETH CLARKSON	2003
24	PETER COLLINS	2003
24	RICHARD FULFORD-BROWN	2003
24	KEITH HYDE	2003
24	ALBERT POUNDER	2003
24	FABIAN C. WILSON	2003

31	TREVOR J. FIDDLER	1979 (broken service 1995-99)
32	KEITH BECKETT	
33	BRENDA ACKERS	2007
33	BEN AITKEN	2007
33	KAREN BUCKLEY	2007
33	DAVID CHEDD	2007
33	MICHAEL CORNAH	2007
33	JOHN DAVIES	2007
33	BARBARA DOUGLAS	2007
33	DAVID EAVES	2007
33	TONY FORD	2007
33	LYNDSAY GREENING	2007
33	CRAIG HALEWOOD	2007
33	KATHLEEN HARPER	2007
33	KEN HOPWOOD	2007
33	ANGELA JACQUES	2007
33	CHERYL LITTLE	2007
33	ELAINE SILVERWOOD	2007
33	JOHN R. SINGLETON	2007
51	JOHN BENNETT	1976 Does not wish to be considered for Mayoralty (Declared Dec1994)

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING AND PROTECTION	POLICY AND SERVICE REVIEW SCRUTINY COMMITTEE	24 OCTOBER 2007	5

## LICENSING ACT 2003 REVISED LICENSING POLICY 2008 - 2011

### Public Item

This item is for consideration in the public part of the meeting.

### Summary

To enable the proper discharge of the council's responsibilities for the regulation of alcohol sales, public entertainment and late night refreshment in the borough in accordance with the provisions of the licensing act 2003 by enabling members to consider and approve the revised draft licensing policy for the period 2008 - 2011, as amended, following the consultation process.

### Recommendation

1. Approve the revised draft licensing policy as detailed in appendix 1, which has been developed from the current draft guidance issued under section 182 of the licensing act 2003 by the secretary of state for culture, media and sport, and amended where appropriate following the consultation process.

### Report

1. The licensing act 2003 requires the licensing authority (for the purpose of this report, the fylde borough council) to prepare for a three year period a statement of licensing policy for their area.
2. The authority's first statement of licensing policy was approved by this council and came into effect on the 7<sup>th</sup> January 2005
3. A statement of licensing policy provides a local framework for decision making when considering applications for licence or variation to licence, as the licensing committee

and its licensing panels are required to have due regard to this when forming a decision

4. As required by the legislation, and in accordance with the guidance issued by the secretary of state, this council, along with all others, is now required to prepare a statement of licensing policy for a further three year period. This revised policy must be in force with effect from the 7<sup>th</sup> January 2008 until 6<sup>th</sup> January 2011.
5. A revised version of the statutory guidance, issued by the secretary of state, following consultation with a wide range of stakeholders including local authorities, the police, and industry and interest groups was published in June 2006 with a further substantial revision formally introduced in June 2007. It is, therefore, important that the changes to the statutory guidance, which was in force when the original policy was formulated, are fully reflected in any revised licensing policy.
6. It has been recognised that many local and national businesses in the leisure industry have undertakings across the fylde coast and it is helpful if the approach to licensing matters is consistent from one licensing authority to another. We have, therefore, on this occasion worked together, in partnership, with Wyre borough to produce what is effectively one common draft licensing policy which sets out how both councils will undertake their duties towards licensing alcohol, entertainment and late-night refreshments. It is intended that this will be adopted separately by each authority.
7. Before finalising and implementing its policy, the council must consult with those who may be affected by it. Accordingly, the views on what should be included in the council's statement of licensing policy have been sought from a wide range of both statutory and non-statutory consultees including:-
  - Lancashire constabulary
  - Lancashire county fire and rescue service
  - Representatives of the liquor licence trade
  - Existing licence holders (including local late night take – away food premises)
  - Representatives of business and residents associations in the borough
  - Representatives of local and national retail and catering chains
  - Fylde councillors and mp
  - Local town & parish councils
  - Fylde community safety partnership
  - Local and national licensing solicitors
  - Area child protection committee
  - Drug action team
  - Alcohol concern
  - Blackpool, fylde and Wyre hospitals NHS trust
  - Equity
  - Other interested parties identified during the consultation process
8. In total well over 500 organisations and interested parties were consulted. A significant number of responses were received. Appendix 2 sets out a summary of each comment received along with officers comments and suggested amendments to the policy. It should be noted that although several of the comments received were from Wyre based premises and organisations, they have been included and have been dealt with within the schedule to ensure that, as far as possible, any changes to the draft, as a



result of the consultation process, are reflected similarly in both the fylde and the Wyre document. Wyre will, of course be submitting the same schedule of all the comments received by both authorities to their members.

9. The draft statement of licensing policy in its original form is attached as appendix 1 to this report. It will be suitably amended once the changes resulting from the consultation exercise have been fully agreed.
10. This document recognises that the licensed leisure and entertainment industry is important to the social and economic life of the area, and seeks to establish “sensible controls and appropriate guidance” to help prevent and deal with anti-social problems which can arise from licensed activities. It takes account of the new and revised guidance referred to above, together with the experiences of the council, as licensing authority, over the last three years. It has changed significantly from the current policy in that it gives much more focus to the authority’s responsibilities under the act and to their expectations in respect of applications. The layout, order of sections etc has also changed significantly in order to rationalise the running order of information.

<b>IMPLICATIONS</b>	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

Report Author	Tel	Date	Doc ID
Stuart Handley	(01253) 658506	October 2007	

<b>List of Background Papers</b>		
Name of document	Date	Where available for inspection
Licensing Act 2003. Guidance Issued Under Section 182 Of The Act.	June 2007	Council office

**Attached documents**

1. Draft Statement of Licensing Policy 2008 – 2011
2. Responses from Consultation



FYLDE BOROUGH COUNCIL



**Draft**



# Statement of Licensing Policy 2008 - 2011

Guidance for the leisure industry, residents and other community stakeholders within the Borough on the application of and approach to, the licensing procedures as administered by the Council (the licensing authority) under the Licensing Act 2003.

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*Note. Whilst this policy endeavors to reflect the legal requirements of the Licensing Act 2003. The Act rather than the Policy will be the definitive reference source for such requirements.*

## **FYLDE BOROUGH COUNCIL'S LICENSING POLICY**

*Many local and national businesses in the leisure industry have undertakings across the Fylde Coast. It is, therefore, helpful if the approach to licensing matters is consistent from one licensing authority to another. This licensing policy has, accordingly, been produced in partnership with Wyre Borough Council whose licensing policy is identical.*

### **1. AUTHORITY PROFILE**

- 1.1** Fylde Borough Council is one of twelve district councils plus two unitary authorities, which comprise the County of Lancashire. It was formed in 1974 from 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 have a long history but today retain much of their Victorian and Edwardian character as popular 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 many older people both as visitors and as residents.
- 1.2** The borough has a population of approximately 75,000. with an above average number of residents aged 45 and over. The attractive nature of the Borough has lead to a substantial number of people retiring to the area and tourists visiting the seaside resort of Lytham 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, BNFL Westinghouse and the Civil Service.
- 1.3** Approximately 270 different premises have licences from the authority which allow 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:-
- 63 pubs & clubs (including 3 nightclubs)
  - 30 certificated clubs (working mens', conservative, labour etc)
  - 27 hotels
  - 63 restaurants
  - 58 shops & off-licences
  - 23 village halls, schools & public spaces 9entertainment only)
  - 29 other premises (sporting clubs, holiday complexes etc and one cinema.)
  - 22 late night refreshment premises (food only)
- 1.4** There are many suburban and rural public houses in the district, many of these serving estates or rural villages that provide a focal point for community life. In other cases, this focal point may be provided by small stores and shops.

### **2 LICENSING AUTHORITY**

- 2.1** Fylde Borough Council is a licensing authority as defined by section 3 of the Licensing Act 2003 ("the Act"), for its borough and will be referred to throughout this policy statement as the "Licensing Authority" or "the Authority" unless otherwise stated.

### 3. LICENSING OBJECTIVES

3.1 The Borough of Fylde has a duty under the terms of the Act to carry out its functions as a licensing authority with a view to promoting the following four licensing objectives:

- ❖ **the prevention of crime and disorder;**
- ❖ **public safety;**
- ❖ **the prevention of public nuisance; and**
- ❖ **the protection of children from harm**

3.2 These licensing objectives are of all equal importance and are the only matters which may be taken into account by the licensing authority.

3.3 To achieve these objectives the licensing authority will use a full range of measures including planning controls, transport controls and crime and disorder policies and powers as well as those available to it as a licensing authority. It will use any relevant partnership arrangements with the police, the fire authority, local businesses, and the local community to assist in achieving these objectives.

### 4. PURPOSE & EXTENT OF POLICY

4.1 This document is a formal statement of the policy adopted by the licensing authority for Fylde Borough Council area setting out how it will secure the licensing objectives detailed at 3.1 above. It provides a framework for all decisions and actions of the licensing authority and its officers in connection with its functions under the Act. The main purposes of the policy are to:

- provide information for elected Members and officers about the powers of the licensing authority.
- set out the boundaries within which decisions are made.
- inform applicants of the way in which the licensing authority will make licensing decisions and how a licensed premises is likely to be permitted to operate.
- inform residents and businesses of the way in which the licensing authority will make licensing decisions and how their needs will be addressed.
- support licensing decisions made by the licensing authority if it is challenged.

4.2 It is important for all parties to note that Licensing Authorities only have discretion on whether to grant applications for new premises licences, club premises certificates or variations to licences/certificates and to impose conditions on granting licences if representations relevant to the licensing objectives are made by or on behalf of "interested parties" (local residents and businesses) or by "responsible authority" (see *section 24*) in due time. Otherwise, the licensing authority must grant all applications in the terms sought by the applicant, with the imposition of only the relevant mandatory conditions. The licensing authority will, therefore, only consider the policies set out in this document when such relevant representations have been made.

**4.3** The policy document does not set out an overview of all shades of opinion. It is a coherent statement of the licensing authority's policy which has been produced after careful consideration of many different and sometimes sharply opposing views. It adopts a single, clear position, having taken into account all of the suggestions put forward by stakeholders.

## **5. EXCLUSIONS FROM THE POLICY**

**5.1** Excluded from the scope of the Licensing Act 2003 and, therefore, from this policy are such issues as health promotion, road safety, car parking, fly posting, employment rights etc. These and similar matters are of great importance but are covered by other legislation. The Licensing Act 2003 should not be used as a substitute for any other legal controls.

**5.2** Nothing in this policy will apply to applications to change the name or address of someone named in the licence or an application to vary the licence to specify a new individual as the designated premises supervisor.

## **6. STATUTORY GUIDANCE**

**6.1** This statement of licensing policy is a requirement of Section 5 of the Licensing Act 2003 and has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182 of the Act (currently dated 28<sup>th</sup> June 2007). The licensing authority is, therefore, bound by the Act, any regulations made under it and the guidance.

**6.2** In relation to the guidance, the licensing authority must have regard to it, but can, if it considers it appropriate, deviate from the guidance. It must, however, have good reasons to justify doing so.

## **7. SCOPE OF POLICY**

**7.1** The scope of this policy includes all licensable activities as defined in the Licensing Act 2003. These are:

- The licensing of individuals for the retail sale of alcohol (Personal Licenses)
- Licensing of premises for the retail sale of alcohol (Premises Licenses)
- The provision of regulated entertainment (Premises Licenses)
- The provision of late night refreshment (Premises Licenses)
- The supply of alcohol (Club Premises Certificates)
- Provision of regulated entertainment at certain clubs (Club Premises Certificates)
- The permitting of certain licensable activities on a temporary basis (Temporary Event Notices).

**7.2** Activities covered by the policy include:

- Retail sale of alcohol (including off licences)
- Supply of hot food or hot drink from a premise from 11.00pm to 05.00am (includes take- aways)
- Supply of alcohol to members of a club or sale of alcohol to guests of a

member of a club

- The provision of regulated entertainment, which includes entertainment provided solely or partly for members of the public, or exclusively to club members and its guests, or, which is provided with a view to for profit (including raising money for charity).

**7.3** The policy covers new applications, transfers, variations of licences and certificates and provisional statements as well as renewals of personal licences. It also includes the review of licences and certificates, which could lead to revocation.

## **8 FUNDAMENTAL RIGHTS**

**8.1** Under the terms of the Act any individual may apply for a variety of permissions and have its applications considered on its individual merits. Equally, any responsible authority or interested party 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.

**8.2** 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.

## **9 LINKS TO OTHER POLICIES & STRATEGIES**

**9.1** 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.

### **9.2 Race Equality**

**9.2.1** All licensing activities will be undertaken in compliance with the authority's Race Equality Scheme which recognises its responsibilities under the Race Relations Act 1976.

### **9.3 Disability Discrimination**

**9.3.1** This Policy Statement recognises the Disability Discrimination Act 1995 and the authority will have regard to this legislation when carrying out its functions under the Licensing Act.

### **9.4 Human Rights Act 1998**

**9.4.1** 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.



## **9.5 Crime and Disorder**

**9.5.1** 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 Police, Lancashire County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 complements this duty for licensing authorities.

## **9.6 National Alcohol Harm Reduction Strategy**

**9.6.1** The authority encourages licencees to give consideration to the National Alcohol Harm Reduction Strategy, in particular the contribution it can make to reducing the harm caused by irresponsible consumption of alcohol.

## **10 LIVE MUSIC, DANCING AND THEATRE**

**10.1** The impact of this policy on regulated entertainment, particularly live music and dancing will be monitored. Where there is an indication that such events are being deterred by licensing requirements, the policy will be revisited with a view to investigating how the situation might be reversed. Proper account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the licensing authority will be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a substantial nature. They will also be aware that the views of vocal minorities should not be allowed to predominate over the general interests of the community that the authority represents.

**10.2** It is recognised that live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circus and street arts. The Council subscribes to the view expressed in the Guidance to the Act that the absence of cultural provision in any area can lead in itself to a loss of community awareness and can expose young people to anti-social activities that damage local communities.

**10.3** The licensing authority will welcome reports to the Licensing Committee from officers concerned with tourism and cultural strategies, on the effects of licensing matters on these issues. Similarly, an opportunity will be given to provide the Committee with briefings on the employment and economic circumstances of the leisure and hospitality industry in the borough.

## **11. AVOIDANCE OF DUPLICATION**

**11.1** 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, it is not considered necessary or helpful to impose the same or similar duties through licensing controls. Nevertheless, licensees should maintain compliance with those

other regulatory regimes and are encouraged to adopt best practice wherever possible.

**11.2** 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.

### **11.3 Planning**

**11.3.1** The licensing authority is acutely aware that excessive bureaucracy provides poor value for money and has separated its planning and licensing regimes to avoid duplicity and inefficiency. Licensing applications will not, therefore, be a re-run of a planning application.

**11.3.2** There are several key differences between licensing and planning controls. Licensing is concerned with achieving the four licensing objectives whereas planning is concerned with such issues as establishing whether a building can be used for a broadly specified purpose, at a particular location. It is also concerned with the size of the building, its visual appearance and the demands it will impose on the local infrastructure.

**11.3.3** The licensing authority will generally not consider the status of any planning permissions when determining a licensing application. Objectors against planning applications will only be able to make representations concerning licence applications if they are relevant to one or more of the licensing objectives.

**11.3.4** Any decision of a licensing panel will not override the conditions attached to a planning consent. There may be circumstances where, for example, the hours agreed for a licence exceed those imposed by a planning condition for those premises. In these cases, the more restrictive hours must be adhered to. Premises operating in breach of its planning permission would be liable to prosecution under planning law.

### **11.4 Building Control**

**11.4.1** As with planning, the licensing authority has also separated its building control and licensing regimes. Whilst it is recognised that many requirements of the building regulations will have a direct influence on the licensing objective of public safety, dealing with such matters as part of a licensing application would be duplicitous. The licensing authority will not, therefore, consider the status of any building control application when determining a licence application. Any decision made by a licensing panel will, however, not override the need to obtain building control approval.

## **12 GENERAL APPROACH TO LICENSING**

**12.1** In undertaking its licensing functions, under the Licensing Act 2003, Fylde Borough Council will aim to ensure that licensable activities make a positive contribution to the social, economic, and environmental well-being of its Borough. The authority wish to see 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. 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, and making for vibrant towns and communities, whilst at the same time providing employment.

- 12.2** To help achieve this, it will seek to give licence holders sufficient freedom and flexibility to enable them to satisfy the requirements of their customers. In return licence holders will be required to operate their undertakings in a socially responsible way, taking the lead role for preventing crime, disorder and disturbance arising from their undertaking and protecting the health, safety and well-being of employees, customers and all others who may be affected.
- 12.3** At the same time the policy statement takes account of the need to regulate the carrying on of licensable activities on licensed premises, qualifying clubs and temporary events in order to limit, within the terms of the 2003 Act the potentially adverse impact of those activities on the public living, working or engaged in normal activity in the area concerned. The Licensing Committees of the Council cannot, however, use the Licensing Act 2003 for any purpose not defined in the Act as a 'licensing objective'.
- 12.4** The licensing authority will ensure that the rights of people using licensed premises or participating in licensed activities are balanced against the rights of those exposed to the impact of those activities. For example, if there are specific cultural events that promote live music, dancing or theatre, the authority will take into consideration the specific cultural need, and the particular characteristics of the event. This will include the type, scale and duration of the proposed entertainment, especially where only limited disturbance may be caused. It is recognized, therefore, that there will, inevitably, be circumstances when the benefits to the majority are considered to outweigh any potential inconvenience to the few.
- 12.5** 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. It does, however, consider all such issues in and around licensed premises licensed premises. In situations where a licence holder really would not have been able to do anything that might have prevented an undesirable incident, the licensing authority will not hold the licence holder to account. Where it is plain though that they are indirectly or directly partly responsible for what has happened (perhaps by employing unsuitable people or exercising poor standards of management), then the licensing authority will make use of its powers under the Licensing Act 2003, where they offer a remedy.
- 12.6** 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.

### **13 APPLICATIONS FOR PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

- 13.1** The licensing authority requires that all applications for the grant, variation or transfer of any licence, permit or certificate detailed in the Act are made in accordance with the statutory requirements and any guidance issued from time to time by the Council.

In particular, all such applications must be accompanied by the appropriate fee, where applicable, for them to be deemed to be properly made. Where such applications are statutorily required to be advertised, or notified to other specified persons, the application must confirm that such advertising or notification has been properly made. Applicants should be aware that failure to make an application in accordance with the statutory requirements will result in the application being returned and that the period for determination will not commence until a valid application has been submitted. Applications will not, however, be returned because of small administrative errors which can be easily corrected.

- 13.2** It is important to ensure that the application accurately reflects the intended operation of the premises. The application must be accompanied by a plan of the premises which shows certain information as required by the Licensing Act 2003 (Premises licences and Club Premises Certificate) Regulations 2005. This includes marking the areas of the premises which are proposed to be used for each licensable activity. 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. In other words, the plan which is submitted as part of the application defines the 'premises' for the purpose of the licence.
- 13.3** As indicated above, the Act requires licence applicants to publicise their applications. This is to enable interested parties and responsible authorities to make a representation if they wish. Our experience as a licensing authority is that statutory publicity may not always bring applications to the attention of all parties. Therefore, in addition to putting applications on our web site, we will notify all members of the Council of applications for premises licences, club premises certificates and variations received on a weekly basis. Under certain circumstances, we may also notify interested parties and responsible authorities when we have received an application. In doing so, we will not solicit representations.
- 13.4** The licensing authority will offer guidance as appropriate to applicants on the completion of necessary documentation. It will issue and make readily available guidance notes on the procedures it requires for making applications for licences and will from time to time review such guidance.

## **14 APPLICATIONS MADE BY THE LOCAL AUTHORITY**

- 14.1** The Council has sought premises licences for public spaces in the community in its own name and will continue to do so. This could include, for example, open spaces, town centre squares, community halls and similar public spaces. With regard to those places, performers and entertainers will not need to obtain a licence or give a temporary event notice themselves in order to perform. Instead they would simply require permission from the Council as the premises licence holder.

- 14.2** When one part of the Council seeks a premises licence from the licensing authority, the Licensing Panel and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority will generally be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.

## **15 VARIATIONS**

- 15.1** Where a premises licence holder wishes to make changes to their licence or to their premises, the Act allows, in most cases, for an application to vary the licence to be made rather than requiring an application for a new premises licence. The licensing authority considers that, in general, any changes to the licence, other than a simple change of name or address or to the Designated Premises Supervisor (which has separate procedures under the Act) will, accordingly, require an application to vary under section 34 of the Act. Examples of such changes include:

- varying the hours during which a licensable activity is permitted;
- adding or removing licensable activities;
- amending, adding or removing conditions within a licence; and
- altering any aspect of the layout of the premises which is shown on the plan.

- 15.2** Proposed alterations may relate to features that are not required to be shown on the plan under section 17 of the Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes). In these circumstances, the authority considers that an application for variation of the licence would not be required provided that such alterations do not impact on the promotion of the licensing objectives.

- 15.3** Where very minor alterations are proposed to part of the premises where licensable activities are authorised, premises licence holders should simply submit a revised plan with a covering letter to the licensing authority, enclosing the statutory fee payable for a copy of a licence. A revised licence will then be re-issued showing the new plan.

## **16 OPERATING SCHEDULES**

- 16.1** Part of the application form requires that an 'operating schedule' is submitted for all applications and variation applications. The operating schedule which must be submitted in a prescribed form, should be fully completed for all relevant applications. Where the application is for a variation to an existing licence, the operating schedule should detail any additional steps required in relation to that variation. It should outline how the premises will be operated, and the arrangements for promoting the four licensing objectives.

- 16.2** The operating schedule must include all information necessary to enable the responsible authorities or interested parties to assess whether the steps outlined for the promotion of the licensing objectives are satisfactory. This will generally mean that applicants will need to complete their own detailed risk assessments on their businesses. Where the operating schedule does not provide enough details, there is an increased likelihood that representations will be made. Where these representations are relevant to the promotion of the licensing objectives, a hearing will follow, unless all parties agree that this is unnecessary.
- 16.3** 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 requirements to be met are detailed in this policy document. Other specific requirements are detailed in relevant legislation and in guidance documents.
- 16.4** In order to minimise problems and the necessity for hearings, applicants should consult with responsible authorities when operating schedules are being prepared. This would allow for proper liaison before representations prove necessary.

## **17 LICENCE CONDITIONS**

- 17.1** 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 necessary 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.
- 17.2** Where no representations have been made, the power to impose conditions exists only when the Licensing Act 2003 makes them compulsory or when they reflect the operating schedule proposed by the applicant.

## **18 THE LICENSING OBJECTIVES**

- 18.1** 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. They have, however, been developed with reference to the licensing objectives and in consultation with the responsible authorities. They, therefore, serve to alert applicants to the matters which responsible authorities will be likely to consider when deciding whether to make representations on an application or whether to call for a review. They also 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.
- 18.2** Where representations are made about matters which relate to one or more of the four licensing objectives, appropriate measures may be imposed as formal requirements of the licence. The need for such measures and extent to which they

are appropriate in each individual case will be judged on a risk assessed basis, having regard to such factors as the type of clientele, the location and style of the premises, the activities carried on there and the times of operation.

**18.3** When assessing operating schedules for the promotion of the licensing objectives particular regard will be taken of any evidenced representations from the relevant responsible authorities such as the police for crime and disorder and environmental health for public nuisance.

**18.4** 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.

## **19 PREVENTION OF CRIME AND DISORDER**

**19.1** 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.

### **19.2 Duplication of Legal Requirements**

**19.2.1** 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.

### **19.3 Underage Drinking**

**19.3.1** 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. The Licensing authority supports the PASS accreditation scheme, which aims to approve and accredit various proofs of age schemes.

### **19.4 Drunkenness on Premises**

**19.4.1** 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.

## **19.5 Pub Watch Schemes**

- 19.5.1** The Licensing authorities value the contribution that Pub Watch schemes make to the reduction of crime & disorder in licensed premises. Where such schemes exist licensees should become active members including implementing any banning orders issued under the scheme.

## **19.6 Drugs**

- 19.6.1** The licensing authority recognises that drug use is not something that is relevant to all licensed premises. They will, however, expect licensees of venues likely to be affected by illegal drugs to take all reasonable steps, including implementing security measures, to prevent the entry of illegal drugs into licensed premises, to take appropriate steps to prevent illegal drugs changing hands within the premises and to take practical measures to prevent tragedies as a result of drug misuse. These may include requirements for regular checks of toilet areas, maintaining records of incidents involving the use and/or detection of drugs and maintaining satisfactory arrangements for storing, disposing of and transferring confiscated and found drugs to the police.

In particular licensees of such venues should be following the recommendations of the book "Safer Clubbing" issued by the Home Office (ISBN 1840827807).

## **19.7 Crime, Disorder & Nuisance around Licensed Premises**

- 19.7.1** Public order matters such as noise from people in the streets, open spaces etc are dealt with by the Police as part of the normal policing plan. The licensing authority's primary focus is the direct impact of activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the area around the premises/place concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from that premises/place and, therefore, beyond the direct control of the individual, business or club holding the licence or certificate concerned. The authority will, accordingly, only attempt to control activities centering on and in the vicinity of licensed premises and qualifying clubs and, where temporary events are taking place.
- 19.7.2** The licensing authority does however expect all licensees, certificate holders and premises supervisors to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside its premises, for example on the pavement, in a beer garden, or in a smoking shelter, where and to the extent that these matters are within its control. Some form of regular engagement between businesses and residents can in some circumstances lead to better understanding of each others needs and inspire a degree of trust.

## **19.8 Door Supervisors**

- 19.8.1** Door supervisors perform a very useful task in preventing people who are drunk, dealing in drugs or carrying offensive weapons from entering licensed premises. When deciding if a condition requiring door supervisors is appropriate the licensing authority will consider the location and capacity of premises and the hours of operation. Generally speaking larger premises in town centre locations with several



licensed premises close by would warrant the employment of door supervisors.

## **19.9 CCTV**

**19.9.1** The presence of CCTV cameras both inside and immediately outside premises can actively deter disorder, nuisance and anti-social behaviour and crime generally. In some circumstances, therefore, the provision of CCTV cameras and video recording apparatus will be a formal condition of granting a premises licence, where an opportunity to impose conditions arises. Such conditions would, however normally be appropriate in town centre pubs and clubs and town centre late night refreshment premises where patrons move from one venue to another and can compliment any public CCTV systems. In rural and family pubs which have the service of meals as the key part of their business and which have a mature clientele, the provision of any CCTV facility will be left to the discretion of the owner, unless there is good evidence that licensable activities on the premises are or are likely to be responsible for crime and disorder problems. CCTV should be installed and maintained on the advice of a Lancashire Police Crime Prevention Officer.

## **19.10 Glasses & Bottles**

**19.10.1** Glasses and glass bottles can be dangerous weapons. Conditions may, therefore, be required to ensure that glasses and bottles are frequently collected to ensure that empty containers do not accumulate in or around the licensed premises and that staff prevent the removal of bottles or glasses from the curtilage and grounds of licensed premises. Location and style of the venue and the activities carried on there are particularly important when assessing whether conditions requiring glasses to be made of plastic or toughened glass are necessary. Such conditions will, however, only be considered where they are considered necessary and where they are both practical and achievable.

## **19.11 Open Containers**

**19.11.1** Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Consideration may, however, be given to conditions preventing the taking of such drinks from the premises in open containers (e.g. glasses and opened bottles) to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

## **19.12 Drinks' Promotions**

**19.12.1** The licensing authority will not support drinks' promotions that encourage the irresponsible consumption of alcohol, such as binge drinking. If such promotions are held they should be in accordance with industry best practice guides.

## **19.13 Responsible Promotion of Alcoholic Drinks**

**19.13.1** The authority recognises the impact of irresponsible consumption of alcohol on crime, disorder and health. Licensees should, accordingly, ensure that alcoholic drinks sold in their premises are packaged, presented and sold in a socially responsible way. In this context the authority commends the use of the Portman Group Code of Practice on Naming, Packaging and Promotion of Alcoholic Drinks.

**19.14 Take aways & Alcohol**

**19.14.1** The licensing authority will not normally approve applications, where relevant representations are received, for take away premises serving food between 11.00pm and 5.00am to include the sale of alcohol in their operating schedules.

**19.15 Police Closure Notices**

**19.15.1** The licensing authority will work closely with the police to review the licences of premises where a Police Closure Notice has been served.

**20 PROMOTION OF PUBLIC SAFETY**

**20.1** The licensing authority is committed to ensuring the physical safety of those using licensed premises. Members of the public have a right to expect, when visiting licensed premises, that due consideration has been taken of their needs with respect to public safety. Licensees, as providers of premises for the sale of alcohol or regulated entertainment, must be able to demonstrate that they have considered and put into effect measures to protect members of the public.

**20.2 Fire Safety[**

**20.2.1** The Regulatory Reform (Fire Safety) Order 2005 requires persons responsible for premises to put in place fire precautions where they are identified as necessary following a fire risk assessment. The Order is enforced, in most premises, by Lancashire Fire & Rescue Authority who have the power to inspect the premises for compliance. The licensing authority recognises that under the provisions of this order any conditions attached to licences which relate to any requirements or prohibitions that could be imposed by the order automatically cease to have effect. In order, therefore to avoid duplication and confusion, the licensing authority will not seek to impose fire safety conditions on a licence where the Regulatory Reform (Fire Safety) Order 2005 applies.

**20.3 Capacity Numbers**

**20.3.1** Safe capacities should only be imposed where necessary for the promotion of public safety or the prevention of crime & disorder. Where capacities have been determined by other legislation, e.g. under the Regulatory Reform (Fire Safety) Order 2005, a condition duplicating that capacity limit is unnecessary. However, if following a representation, a capacity which would apply at a material time when licensable activities are taking place is felt desirable as for example when overcrowding is likely to lead to disorder because crowds become frustrated and hostile, then a condition may be imposed.

**20.4 Health & Safety**

**20.4.1** The Health & Safety Etc. at Work Act 1974 places a duty on employers to ensure not only the safety of their employees but also their customers and others. It is therefore unnecessary to impose conditions that duplicate those provisions. It is, for example, unnecessary to attach a condition to a licence requiring the electrical installation to be maintained in a safe condition as this is also a requirement of Regulations made under the Health & Safety Etc. at Work act 1974.

## **21. PREVENTION OF PUBLIC NUISANCE**

- 21.1** Licensed premises have a significant potential to impact adversely on communities through public nuisances, which can arise from their operation. The licensing authority recognises the need to prevent public nuisance to residents, visitors and other businesses from the potential consequence of the operation of licensed premises, whilst balancing the rights of licensed premises to develop their business potential.
- 21.2** In considering what constitutes a public nuisance the licensing authority 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 are mainly noise, light pollution and litter.
- 21.3 Duplication of other Statutory Controls**
- 21.3.1** Conditions attached to licences are not necessary where the issue is covered by other legislation. However, in the case of, for example, noise nuisance the Environmental Protection and Noise Acts are designed to deal with nuisance once a problem has occurred and therefore conditions aimed at preventing nuisance from occurring in the first place may be imposed.
- 21.4 Disturbance by Patrons leaving the Premises**
- 21.4.1** Disturbance caused by pedestrians some distance away, once they have left licensed premises, is difficult to relate back to those premises and the premises operator has little or no legal responsibility at that point. If the individuals concerned had chosen instead to socialise at a private house, the effects would have been much the same. The licensing authority, therefore, accepts that annoyance caused by people in the street other than in the vicinity of licensed premises, falls outside the scope of licensing control.
- 21.4.2** Conditions will, accordingly, only be focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified.
- 21.4.3** Licensees should take appropriate measures to minimise disturbance in the immediate area of their premises caused by patrons leaving. These may include, during the final hour of daily trading, making appropriate announcements or projecting images to remind patrons of the need to leave the premises without causing annoyance, nuisance or disturbance to local residents and to advise patrons of any taxi free-phone or collection arrangements available upon the premises and displaying clear, legible and conspicuous notice/s requesting patrons to avoid causing noise, nuisance or disturbance to local residents. Door supervisors employed at the premises should ensure that customers leave the area quickly and quietly

## **21.5 Noise Nuisance**

- 21.5.1** 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.
- 21.5.2** Where applications lead to representations about noise, any necessary and appropriate conditions 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.

## **21.6 Noise Monitoring**

- 21.6.1** During special events, the licensing authority may require that the licensee conducts regular patrols to determine the likelihood of unreasonable disturbance to any nearby residential premises. Where such a condition is imposed, the applicant will need to maintain a log of such patrols indicating the time of the patrol, any incidents and what remedial action was taken.

## **21.7 Litter**

- 21.7.1** The cumulative effects of litter around premises carrying on licensable activities can amount to public nuisance. It may, therefore, be necessary, for example, to impose conditions on licences for take away premises which require litter bins to be provided or for litter dropped around of the premises to be collected and removed at regular intervals at the licence holder's expense including washing away to the gutter any spilled food. Further conditions requiring cigarette ends to be regularly removed from the areas around premises used by customers for smoking may also be necessary.

## **21.8 Light Pollution**

- 21.8.1** Measures introduced to control the use of lighting around the premises will take account of the benefits of such lighting in deterring crime & disorder. A balanced approach must therefore be sought when addressing such issues.

## **22 PROTECTION OF CHILDREN FROM HARM**

- 22.1** The licensing authority is committed to protecting children from moral, psychological and physical harm and views this as an important licensing objective. In particular children should be protected from exposure to strong language, sexual expletives and adult entertainments. Nevertheless, the licensing authority has taken account of the view of the Government that the creation of family-friendly licensed premises should be encouraged. Overly restrictive conditions will not be imposed if they may frustrate this aim. For example the licensing authority will not normally impose conditions prohibiting the lawful admission of children to any premises, believing this should remain a matter of discretion of the licence holder. However, it will where necessary impose conditions designed to protect children.

**22.2** In matters concerning the protection of children from harm, the licensing authority regards the Lancashire Safeguarding Children Board as the 'responsible authority' within the terms of Section 13 (4).f of the Licensing Act.

**22.3** Venue operators seeking premises and club premises certificates may wish to volunteer prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations, to the contrary, are made to the licensing authority, these volunteered prohibitions and restrictions will become conditions attaching to the licence or certificate and will be enforceable as such.

#### **22.4 Sale and Supply of Alcohol to Children**

**22.4.1** Conditions will not seek to prohibit any sales or supply of alcohol to children that are offences under the Act. However, conditions will be considered which aim to reduce the probability of such offences taking place

#### **22.5 Proof of Age Schemes**

**22.5.1** The licensing authority considers preventing children from obtaining alcohol from licensed premises to be of great importance in protecting them from harm. Applicants must, therefore, be able to demonstrate that they have in place, satisfactory arrangements to prevent sales of alcohol to children including a recognised or appropriate proof-of-age scheme. The licensing authority would be supportive of arrangements, which include incorporating any of the following:

- Passport.
- Photo Card driving licence issued in the European Union
- Proof of Age Scheme Card
- 'New type' driving licences with photographs.
- Official ID card issued by the HM Forces or by a European Union country bearing a photo and date of birth of holder
- Citizen Card supported by the Home Office

The authority supports 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.

#### **22.6 Adult Entertainments**

**22.6.1** Children should not be exposed to entertainments of a sexual nature or to strong language at a too early an age. Conditions may be imposed, if representations are received, aimed at preventing such exposure either intentionally or accidentally. In some premises entertainments 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.

**22.6.2** The licensing authority will have particular regard to representations from the Social Services and the Local Area Child Protection Committee (which it has recognised as the authority competent to advise it on protection of children) to determine if measures

proposed are sufficient to ensure that children are adequately protected from harm. It will not normally grant an application for a licence or variation of a licence where representations are made by one of the above mentioned bodies expressing serious 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.

## **22.7 Children and Entertainment**

**22.7.1** Where children are present at an event as entertainers, an adult should be nominated as responsible for such child performers.

**22.7.2** Where there is provision of entertainment specifically for children (e.g. a children's disco or supervised play area) sufficient adults should be present to control the access and egress of the children and to secure the protection of children from harm. Those regularly caring for or supervising children will have to have undergone an appropriate criminal record check with the Criminal Records Bureau.

## **23 LICENSING HOURS**

**23.1** The licensing authority is mindful of the argument that in some situations, longer licensing hours for the sale of alcohol can help to minimise the impact of large concentrations of customers leaving premises simultaneously and that this can help to reduce the risk of nuisance and crime and disorder. Restricted licensing hours can, furthermore, serve to encourage binge drinking, create noise and disturbance at fast food outlets and generally produce peaks of disorder and disturbance.

**23.2** The authority is aware that, in parts of the borough, many premises are already open for the sale of alcohol and late night refreshment as well as the provision of entertainment into the early hours of the morning without giving rise to any problems in the area.

**23.3** 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 affect on the four licensing objectives will be paramount. The licensing authority will, however, be mindful that if the applicant's operating schedule has adequately addressed the licensing objectives there may be no justification for restricting opening hours. If representations are made, appropriate licence conditions may be applied, and these may be stricter if the application is for later hours.

**23.4** The licensing authority will not establish zones within which it sets fixed trading hours that may be different to those set elsewhere, as this could lead to problems when customers move from one zone to another. However, it will always take due account of local circumstances and stricter conditions may be applied where there is denser residential occupation.

- 23.5** Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises throughout the hours they intend to open unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of shops known to be a focus of disorder and disturbance because youths gather there.

## **24. REPRESENTATIONS (OBJECTIONS)**

- 24.1** The Chief Officer of Police, the Fire Authority, the enforcing authority for health and safety purposes, the local planning authority, the authority responsible for minimising or preventing the risk of pollution and the Local Child Protection Committee are all '**Responsible Authorities**' under the Act. These responsible authorities may make representations on applications for premises licences and club premises certificates, so far as they relate to the promotion of the four licensing objectives and can request reviews once licences have been granted. The licensing authority may, however, only consider representations from the Chief Officer of Police in respect of applications for personal licences and temporary event notices. Contact details for the local responsible authorities can be found in Appendix 1.
- 24.2** Local residents and businesses, in the vicinity (see paragraph 25 below for definition) of the premises subject to the application (known as '**Interested Parties**') or their representatives are free to raise relevant representations. The licensing authority may only consider representations from interested parties in respect of applications for premises licences and club registration certificates and for variations of the same. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious. Representations can be made in opposition to, or in support of, an application.
- 24.3** Parish or town councils, as well as residents' associations, can, by virtue of the fact that they represent persons living in their vicinity, be "interested parties and may, therefore, raise a valid representation against an application.
- 24.4** Officers of the licensing authority will determine whether or not a representation qualifies as a "relevant representation" and therefore whether or not the representations may be taken into account by the licensing authority when it makes its decision. In determining whether or not a representation is a "relevant" representation, the licensing authority will have regard to the Government Guidance.
- 24.5** The licensing authority encourages all parties to discuss with each other any issues raised in representations in an attempt to reach agreement. Such an agreement may involve a modification to the application, including a reduction in operating hours or the addition of other measures to the operating schedule. Should an agreement be reached then it will not be necessary to have a hearing before a licensing panel.

- 24.6** Where representations are received which relate to a perceived potential for the application to have a detrimental affect on one or more of the licensing objectives, which are not substantiated by evidence, it will be accepted. The weight which the licensing panel attaches to such unsubstantiated representations will, however, be limited. It is considered that should the misgivings of the objector/s be realised, such matters are best dealt with through the licence review process. Members may then hear appropriate evidence and if considered necessary attach a condition or conditions to the licence or revoke the licence.

## **25 VICINITY**

- 25.1** The term “in the vicinity” is not defined in the Licensing Act or in the Guidance. In practice, what constitutes “the vicinity of premises” is a subjective issue and will ultimately be decided by the Courts. However, as a guideline and in order to ensure clarity of understanding, the licensing authority regards the term as meaning a residence or business sufficiently close to the premises to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside as a result of the activities taking place.

- 25.2** The process followed to determine if representations are in the vicinity will be to initially determine if the property falls within a radius of 150m from the curtilage of the application premises. Any within that distance will be considered to be within the vicinity. Properties outside this perimeter will be looked at to determine if, in the circumstances of that particular case, they might still reasonably be affected by the licensable activities. Matters which will be considered are:-

- the density of buildings around the area, for example, a premises with a rural open aspect may potentially disturb residents at a greater distance than those in a developed area
- the topography of the land, for example, if the premises are elevated above residential properties
- whether the premises are separated from neighbouring properties by barriers such as rivers, wooded areas railway lines or motorways.

## **26. DISCLOSURE**

- 26.1** Where a notice of a hearing is given to an applicant, the licensing authority will, as required under the Licensing Act 2003 (Hearings) Regulations 2005, provide the applicant with the notice and copies of the relevant representations that have been made.

- 26.2** In some wholly exceptional and isolated circumstances it is recognised that interested parties may be reluctant to make representations because of fears of intimidation or violence if personal details, such as name and address, are divulged to the applicant. Where it is considered that the interested party has a genuine and well-founded fear of intimidation and may be deterred from making a representation because of this, they may be advised to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.



- 26.3** The licensing authority may also decide to withhold some or all of the interested party's personal details from the applicant, giving only enough details (such as street name or general location within a street) which would allow an applicant to be satisfied that the interested party is within the vicinity of the premises. However, withholding such detail will only be considered in exceptional situations, where the circumstances justify such action and the licensing authority is satisfied that the complaints are not frivolous or vexatious.

## **27. HEARING**

- 27.1** A hearing will be arranged to deal with any application which cannot be dealt with under delegated powers or resolved by agreement between applicants and interested parties and/or responsible authority.
- 27.2** The licensing authority recognises the right of an individual to be represented at a hearing by another person such as a legal representative, friend, MP or local area councillor.
- 27.3** Parish or town councils, or residents' associations, can be represented at a hearing, provided they have formally reached a view on a particular application and raised a valid representation. Anyone speaking on behalf of such organisations should, however, be mandated in writing by them and be able to produce evidence that the representations they are making are supported by a formal decision taken by the organisation
- 27.4** Ward Councillors or members of Parish or Town Councils may not make representations in their own right unless they themselves are interested parties by virtue of living or having a business in the vicinity of the premises. This does not, however, prevent such persons representing an interested party at a hearing as long as they have been requested to do so by that party. Such requests should be writing and be forwarded to the authority prior to the hearing. Any councillor who makes a representation, or represents someone who does, may not take part in any decisions made regarding that application.
- 27.5** All local councillors are subject to the Local Authorities (Model Code of Conduct) Order 2007 which restricts their participation in meetings to discuss matters, in which they have a 'prejudicial' interest (i.e. an interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest). However, local councilors, who are interested parties, would normally be considered to have such a prejudicial interest in an application may attend licensing hearings to make representations, answer questions or give evidence, provided that the public are also allowed to attend for the same purpose, as long as they withdraw from the meeting immediately afterwards and fulfill their duty to act in the interests of all of their constituents. Their role as a community advocate must, therefore, be balanced with their ability to represent specific interests.
- 27.6** Hearings before a licensing committee are quasi judicial in nature and therefore some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure adopted by in Fylde is designed to ensure that all parties are able to express their views openly and fairly. The procedure is inquisitorial rather than adversarial and whilst applicants, interested parties, and responsible authorities are

entitled to bring legal representation with them if they wish, this is by no means a requirement.

- 27.7** Whilst the licensing panel usually meets in public, it does have power to hear certain applications in private. The panel will, however, always reach its decision in private. A public announcement of the decision will be made at the end of the hearing. The decision determined by the panel will be accompanied with clear, cogent reasons for the decision.

## **28. DETERMINATION OF APPLICATIONS**

- 28.1** In determining a licence application the overriding principle adopted by the authority will be that each application will be determined on its individual merits.
- 28.2** Upon receipt of a valid application, the licensing authority will consider the matter and determine it in accordance with:-
- (a) The case and evidence presented by all parties
  - (b) The promotion of the four licensing objectives
  - (c) The statutory requirements
  - (d) Guidance from the Secretary of State
  - (e) This Statement of Licensing Policy
- 28.3** To assist in the speed, efficiency and cost-effectiveness of administering the licensing process, the application will be determined in accordance with agreed delegation criteria detailed at Appendix 2.
- 28.4** The decisions taken by the authority will be focused on matters within the control of individual licensees and others granted relevant permissions. Accordingly, in addressing this matter, the authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned.
- 28.5** The licensing panel will take full account of representations from the applicant and from interested parties or responsible authority making representations, treating each fairly and equally. Matters of fact will be decided on the balance of probabilities.
- 28.6** If the panel considers that the impact on the licensing objectives of granting the licence is likely to be acceptable it will grant the licence, subject to any conditions that it considers necessary to protect the objectives.

## **29. NEED FOR LICENSED PREMISES**

- 29.1** The licensing authority will not use its licensing powers to dictate whether there is a market need for additional licensed premises. That will always be a planning and/or a business decision. They will, furthermore, not impose a ceiling on the number of licensed premises overall nor will they have a quota system for broad classes of licensed premises, such as public houses.

### **30. CUMULATIVE IMPACT OF A CONCENTRATION OF LICENSED PREMISES**

- 30.1** In some circumstances, the Act allows licensing authorities to introduce a ‘cumulative impact policy’ covering specific target areas. “Cumulative impact” in this context is the potential impact that a significant number of licensed premises concentrated in one area may have on the licensing objectives. Whilst this is a proper matter for a licensing authority to consider in developing its licensing policy statement, the statutory guidance, advises that this situation is likely to occur in town centres and city centres “where the number, type and density of premises selling alcohol for consumption on the premises are unusual and serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises”.
- 30.2** The night time leisure scene in Fylde is not entirely free of disorder problems but relative to the small number of areas throughout the country where the situation is seriously out of control, it is fortunate. The authority, nevertheless, 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 impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but this may not be attributable to any individual premises.
- 30.3** In any consideration of the introduction of a ‘cumulative impact policy’, the licensing authority will rely on objective evidence that crime and disorder or nuisance are occurring at an exceptional level and that these problems would not occur, were it not for the customers of licensed premises in the area. If this is established, then the extent of the area concerned will be identified.
- 30.4** 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.
- 30.5** Only if it is demonstrated with hard evidence that a ‘cumulative impact policy’ is necessary and that no lesser measure is likely to have the desired effect, will such a policy be introduced.
- 30.6** This licensing authority, having regard to the guidance and to the evidence currently available, considers that there are no particular parts of the district which are causing a cumulative impact on any of the licensing objectives.
- 30.7** However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be on the objector to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed.

- 30.8** If such a special policy were to be adopted, it would form part of the statement of licensing policy. If relevant representations were received from responsible authorities or interested parties concerning a new application within the area covered by the special saturation policy, the outcome would normally be a refusal.
- 30.9** The licensing authority recognises, however, that such a policy could not be absolute and it would continue to consider each application properly on its merit. For licences that were unlikely to add significantly to the problems of saturation, the application would generally be approved.
- 30.10** 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.

### **31. OTHER CONTROLS ON ANTI-SOCIAL BEHAVIOUR**

- 31.1** Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These controls include:
- Planning controls
  - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
  - Power of local authority to designate parts of the District as areas where alcohol cannot be consumed
  - Police enforcement of other regulatory regimes concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
  - Potential prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
  - The confiscation of alcohol from adults and children in designated areas
  - Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
  - The power of the Police and other responsible authority or a local resident or business to seek a review of the licence or certificate in question

### **32. REVIEW of LICENCES**

- 32.1** The Act provides a mechanism for reviewing premises licences or club premises certificates where problems associated with achieving one or more of the four the licensing objectives occur. Consequently, it represents a crucial protection for the community. Reviews of licences may be triggered at any stage by responsible authorities or interested parties, in the vicinity (see section 25 for definition) of the premises. Reviews may also become necessary following the service of a closure

order by the police or any formal enforcement action by officers of the local authority. However, no more than one review originating from an interested party will normally be permitted within any 12 month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a Closure Order. The Council in its capacity as licensing authority may not request a review of its own volition.

- 32.2** Whilst responsible authorities and/or residents living in the vicinity of the premises can trigger a review, such requests must be in writing. Anybody requesting a review must indicate the grounds for review and provide as much evidence as possible to support the view that one or more of the licensing objectives are not being met.
- 32.3** The licensing authority must reject any request for a review if the reason does not relate to one or more of the four licensing objectives.
- 32.4** Requests for reviews will also be rejected from interested parties if the grounds are, in the opinion of the licensing authority, frivolous, vexatious or repetitive. Repetitive grounds are those, which mirror those considered at a previous hearing.
- 32.5** It is the licensing authority's belief that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. Reviews will, therefore, be mainly reserved for circumstances where early warnings of concerns and the need for improvement have gone unheeded by the management of the licensed premises. Whenever possible, licence holders will be informed of any concerns that could lead to a review, in order that improvements can be made.
- 32.6** Any review of a licence will take place before the Licensing Committee or one of its panels. The licensing authority will apply the full range of powers available to it when a review of a premise licence becomes necessary. It will, however, be mindful of the need to prevent the review process being used as an opportunity by responsible authorities and interested parties to re-run earlier representations without due cause.

### **33. PROVISIONAL STATEMENTS**

- 33.1** Where premises are being constructed for the purposes of being used for one or more licensable activities or are being extended or otherwise altered for that purpose (whether or not they are already being used for that purpose) a person may apply for a Provisional Statement if they have an interest in the premises and if an individual, they are aged 18 years or over.
- 33.2** Applications for provisional statements will be dealt with in a similar manner as applications for a premises licence.
- 33.3** If a provisional statement has been issued and the person subsequently applies for a premises licence in respect of those premises, any representations made at the time will not be considered provided that:
- 33.4**
- Given the information in the application for a provisional statement the person objecting could have made the same, or substantially the same, representations about the application but had failed to do so without reasonable excuse
  - There has been no material change in circumstances relating either to the relevant

premises or to the area in the vicinity of those premises.

- 33.5** The licence will not become effective until the start date stipulated by the licensing authority.

#### **34. TEMPORARY EVENT NOTICES**

- 34.1** The Act allows a limited number of events for less than 500 people and lasting up to 96 hours, to be held without a premises licence, providing certain conditions are met and due procedure is followed. Such temporary events only need to be notified to the licensing authority using the Temporary Event Notice procedure. Such events may, however, depending on the nature and location of the event, have serious crime and disorder implications.
- 34.2** Organisers of these temporary events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the licensing authority to work with them to identify and reduce the risk of crime and disorder.
- 34.3** The licensing authority recommends that at least 28 days notice be given to hold such events, to allow it to help organisers to plan its events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice and any lesser time means that planning may be rushed and haphazard.
- 34.4** The law, however, requires that at least 10 working days notice must be given. Any notice of a temporary event which is received later than 10 working days from the event (not including either the day the notice is received or the day of the event) will, therefore, be rejected.
- 34.5** The most important aspects of the system of temporary event notices are that no permission is required for these events from the licensing authority. The procedure simply involves the authority being notified of such an event. Only the police may intervene to prevent the event or modify the arrangements for such an event and only if they consider there may be problems specifically with crime & disorder. The licensing authority will only ever intervene itself if the limits on the number of notices that may be given in various circumstances, as outlined in the Act, would be exceeded.
- 34.6** Many of those who give temporary event notices will not have commercial backgrounds or ready access to legal advice. It will include, for example, those acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events to raise funds at which licensable activities will take place. The licensing authority will ensure that local guidance about the temporary permitted activities is clear and understandable and will strive to keep the arrangements manageable and user-friendly for these groups.

- 34.7** In the event of a relevant representation from the police, regarding temporary event notices, the licensing authority will hold a hearing not less than 24 hours before the event is due to take place. The licensing authority will only consider, at hearings, issues regarding the prevention of crime and disorder. No consideration can be given to the other three licensing objectives.

## **35. PERSONAL LICENCES**

- 35.1** 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.
- 35.2** Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence.
- 35.3** The licensing authority recognises it has very little discretion regarding the granting these licences. In general, provided an applicant has a qualification approved by the DCMS and does not have certain serious criminal convictions, the application has to be granted.
- 35.4** The licensing authority requires every application for a personal licence to be accompanied by a Standard Criminal Record Disclosure Form from the Criminal Records Bureau (CRB) issued within one month of the application. This assists the authority in determining whether the applicant has any relevant unspent convictions. Applicants who originate from, or who have lived under, foreign jurisdiction will be required to provide a document from that jurisdiction, equivalent to the criminal records disclosure form, or to make a clear statement as to whether they have been convicted outside England and Wales of a relevant offence or an equivalent offence. If an applicant has a relevant conviction the police can oppose the application and if such a representation from the police is lodged, a hearing has to be held.
- 35.5** At such hearings the licensing authority will consider carefully whether the grant of the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The licensing authority will normally refuse applications where there are recent "relevant offences" and will only grant the application if it is satisfied that there are compelling reason for so doing.
- 35.6** A personal licence holder who is charged with a relevant offence is required by Section 128 of the Licensing Act 2003 to produce the personal licence to the court on their first appearance in court in connection with the offence. If for any reason the personal licence cannot be produced, the holder must notify the court that they hold a personal licence and the reasons why it cannot be produced. Failure to comply with this requirement is in itself an offence, and is likely to result in further prosecution proceedings being taken against the individual by the licensing authority.
- 35.7** Where a personal licence holder is convicted by a court for a relevant offence, the Court will advise the Council accordingly. On receipt of such a notification, the Council will record the details on file for future reference

### **36. DESIGNATED PREMISES SUPERVISOR (DPS)**

- 36.1** The holder of a premises licence must nominate a personal licence holder as a Designated Premises Supervisor. The Designated Premises Supervisor will then be responsible for the day to day running of the premises. Whilst it is not essential for the Designated Premises Supervisor 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.
- 36.2** Where the Designated Premises Supervisor 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 Designated Premises Supervisor can be contacted.
- 36.3** The statutory guidance indicates that a Designated Premises Supervisor may supervise more than one premise. To do so, 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. The licensing authority accepts that, whilst this may be achieved in respect of a small number of relatively closely located shops or off-licences, it would be more difficult to demonstrate where a DPS intended to supervise a number of large pubs or nightclubs with little or no geographic proximity.

### **37. AUTHORSATION FOR SALE OF ALCOHOL**

- 37.1** The sale of alcohol can only take place if it is authorised by a personal licence holder. However, the fact that every 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.

### **38. COMPLAINTS AGAINST LICENSED PREMISES**

- 38.1** The Council will investigate all complaints against premises licensed by them. Complainants will, in the first instance, be encouraged to raise the complaint directly with the licensee or business concerned. In the case of a valid complaint, the Council will initially endeavour to seek a resolution through informal means.
- 38.2** All complaints must, in the first instance, be addressed to the offices of the licensing authority



- 38.3 The Council will only investigate complaints under this policy if it relate to one or more of the four licensing objectives.
- 38.4 Where they consider appropriate, the Council may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

### **39. ENFORCEMENT**

- 39.1 Once licensed, it is essential that premises are maintained and operated in accordance with the requirements of the Licensing Act and operating schedule and to ensure the continued promotion of the licensing objectives. The Council will therefore make arrangements to monitor premises and take enforcement action to secure these criteria.
- 39.2 The Council has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Enforcement action in respect of licensing matters will be taken in accordance with the authority's Licensing Enforcement Policy and will be targeted, proportionate and transparent. The inspection of premises will be undertaken, when necessary, on a risk assessment and targeted basis, ensuring that resources are concentrated on high risk and problem premises and activities.
- 39.3 The authority will liaise with the local police and other responsible authorities, on enforcement issues, to provide for a more efficient deployment of Local authority staff and police officers who are commonly engaged in enforcing Licensing Law and the inspection of licensed premises. This will provide for the targeting of agreed 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.
- 39.4 Where possible and appropriate, the Council, Lancashire Police and/or the Lancashire Fire and Rescue Service will give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives.

### **40. DELEGATION**

- 40.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 40.2 The Council is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the guidance issued by the Secretary of State. These arrangements are set out more fully in the table at Appendix 2 of this policy.
- 40.3 The powers of the Council under the Act may be carried out by the Council's Licensing Committee, by a panel of that Committee or by one or more officers acting under delegated authority.

- 40.4** The Licensing Committee will be made up of 15 members and these may be split into panels of three councillors. The Committee or one of its panels will determine, by way of a hearing any application where relevant representations have been made. The only exemption to this is if all parties agree that a hearing is unnecessary.

**41. APPEALS**

- 41.1** Entitlement to appeal against any decision of the licensing authority is set out in Schedule 5 of the Act.

**42. COMPLAINTS ABOUT OUR SERVICE**

- 42.1** In accordance with the Council's complaints procedure, we will investigate any complaint about the way our officers dealt with a licensing issue, and we will inform the complainant of the outcome. If the complaint is justified, we will put the problem right if possible.

**43. COMMENCEMENT & REVIEW**

- 43.1** This Policy comes into effect on 7 January 2008. It will be kept under review and the Council may make changes after consultation. It will be renewed every three years. We will be pleased to receive the views of responsible authorities, interested individuals or organisations at any time and, after consultation, may change the Policy. Any amendments will be published in the form of a new policy statement or, if appropriate, by publishing the amendment. View the Policy online at [www.fylde.gov.uk/licensing](http://www.fylde.gov.uk/licensing)

## APPENDIX 1 – CONTACT DETAILS RESPONSIBLE AUTHORITIES

### Contact details for licensing authority:

Licensing Team  
Fylde Borough Council  
Town Hall  
Lytham St Annes  
Lancs  
FY8 1LW  
Email: [licensing@fylde.gov.uk](mailto:licensing@fylde.gov.uk)  
Tel No: 01253 658658

### Contact details of responsible authorities:

<b>Responsible authority</b>	<b>Address</b>
<b>Health &amp; Safety Environmental Protection Planning</b>	C/O Licensing Team Fylde Borough Council Town Hall Lytham St Annes Lancashire FY8 1LW Email: <a href="mailto:licensing@fylde.gov.uk">licensing@fylde.gov.uk</a> Tel No: 01253 658658
<b>Police Authority</b>	Lancashire Constabulary Licensing Department Western Division Bonny Street Blackpool Lancs FY1 5RL Tel No: 01253 293933
<b>Fire Authority</b>	FAO Station Officer Garrod Lancashire Fire and Rescue Service St Annes Fire Station St Andrews Road North St Annes Lancs FY8 2JQ Tel No: 01253 722268
<b>Protection of Children</b>	Childrens' Services Room B15A First floor County Hall Preston PR1 8 XJ Tel No: 01772 533495
<b>Weights &amp; Measures</b>	Mr D Johnnie Principal Officer for Underage Related Sales Lancashire Trading Standards 58-60 Guildhall Street Preston PR1 3PR Tel No: 01772 533573

## APPENDIX 2

### Table of Delegations in respect of the Licensing 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 the applicant has unspent convictions and police representations have been made	All other cases
Application for Premises Licence/Club Premises Certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate	If a representation made	If no representation made
Application to vary Designated Premises Supervisor	If a police representation made	All other cases
Request to be removed as Designated Premises Supervisor		All cases
Application for transfer of Premises Licence	If a police representation made	All other cases
Applications for Interim authority	If a police representation 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 lead authority		All cases
Determination of a police representation to a temporary event notice	All cases	
Decision as to whether to withhold some or all of an interested party's personal details from the applicant.		All cases

## APPENDIX 3

### Consultation

Consultation with key stakeholders and interested parties on this policy will be carried out, for a period of 8 weeks, from 15<sup>th</sup> August to 10<sup>th</sup> October 2007. Proper weight will be given to the views of the bodies consulted. Regard has been paid to the Code of Practice on Consultation issued by the Cabinet office in January 2004.

A number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration, are being consulted. Hopefully they will play their part in finally determining the policy. These included the following:-

- The Chief Officer of Police
- The Fire authority
- Representatives of local holders of licences & certificates
- Representatives of businesses and residents in the borough
- Representatives of local late night take-away food businesses
- Fylde Community Safety Partnership
- Local licensing solicitors
- Representatives of child welfare groups
- Town and Parish Councils

Views are sought on what should be included in the Council's Licensing Policy Statement. This is your chance to tell us what you think the policy statement should contain to ensure that it properly reflects the local balance between commercial interests, the licensed trade and the communities they serve and impact upon. It would be helpful if comments could be referenced with the paragraph of the draft document to which they relate and specify which of the four licensing objectives they relate to as the policy statement can only refer to how the Council will meet the four licensing objectives.

Comments should be made in writing to:

Commercial and Licensing Manager  
Consumer Wellbeing and Protection Unit  
Fylde Borough Council  
Town Hall  
Lytham St Annes  
FY8 1LW

REPLIES TO THIS CONSULTATION SHOULD BE RECEIVED BY **10<sup>th</sup> OCTOBER 2007**.

## APPENDIX 4

### GLOSSARY OF TERMS

<b>The Act</b>	Means the Licensing Act 2003.
<b>Alcohol</b>	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.
<b>Appeals</b>	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.
<b>Authorised Persons, Interested Parties and Responsible Authorities</b>	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 & safety. "Interested parties" are persons living in the vicinity of the premises; a body representing such persons; a person involved in business in the vicinity; or a body representing businesses in the vicinity. "Responsible authorities" include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection and other specified authorities. Only these groups can make representations about an application for a premises licence.
<b>Closure Order</b>	New 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.
<b>Club Premises Certificate</b>	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. Club premises certificates replace "registration" under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Act. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.
<b>Conditions</b>	A premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Secretary of State's guidance provides " <i>The only conditions which should be imposed on a premises licence or club premises certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder</i> ". Conditions must be proportional and tailored to size, style, characteristics and activities taking place at the premises concerned.

<b>Designated Premises Supervisor</b>	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.
<b>The Guidance</b>	The Statutory Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
<b>Interim Authority Notices</b>	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.
<b>Late Night Refreshment</b>	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
<b>Licensable Activities</b>	Activities that must be licensed under the Act: The sale by retail of alcohol; supply of alcohol by a club; provision of regulated entertainment; provision of late night refreshment
<b>Licensing Authority</b>	Local authorities (district or county councils). In the context of this document Fylde Borough Council
<b>Licensing Committee</b>	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
<b>Licensing Objectives</b>	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.
<b>Licensing Panel</b>	A committee of 3 councillors appointed from the licensing committee to whom the functions of the licensing committee can be delegated under the Act.
<b>Mandatory Conditions</b>	Conditions that the Act requires are imposed on a premises licence in specified circumstances. For example no supply of alcohol unless there is a designated premises supervisor; where films are exhibited film classifications must be observed; and where the premises licence includes a door supervision condition it must also require the door supervisors to be licensed by the Security Industry Authority
<b>Objection Notice</b>	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
<b>Operator</b>	Includes all premises licence holders, club premises certificate holders and designated premises supervisors.

<b>Operating Schedule</b>	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.
<b>Personal Licence</b>	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. The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned do not supply alcohol as one of its licensable activities. 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 (there is no equivalent to relevant representations as for premises licences).
<b>Premises Licence</b>	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.
<b>Provisional Statement</b>	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. Equivalent to a "provisional grant" under the Licensing Act 1964. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed
<b>Regulated Entertainment</b>	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
<b>Relevant Offences</b>	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.
<b>Relevant Representations</b>	The 2003 Act does not use the term "objections". Instead authorised persons, interested parties and responsible authorities may be able to make relevant representations about an application for a licence. Representations must relate to the licensing objectives and where made by an interested party must not be frivolous or vexatious. When considering an application from an interested party or responsible authority the local authority need only consider relevant representations. The making of relevant representations engages the licensing authority's discretion to take "steps" consistent with the licensing objectives when considering the application.



<b>Review of Licence</b>	Where a premises licence is in force an interested party or responsible authority may apply to the licensing authority for it to be reviewed. The authority must hold a hearing to review the licence and as a result must take any <u>necessary</u> steps to promote the licensing objectives, such as the modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to three months; or the revocation of the licence. E.g. neighbours of a public house causing a public nuisance could apply to the licensing authority for the premises licence to be reviewed.
<b>Statement of Licensing Policy</b>	Each licensing authority must every three years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.
<b>Temporary Event Notices</b>	Where it is proposed to use premises (the definition of which includes any place) for one or more licensable activities involving less than 500 people during a period not exceeding 96 hours a “temporary event notice” may be given to the licensing authority. The most important aspect of this system is that no permission is required for these events from the licensing authority – once the required notice is served in the specified way then subject to police objections on the crime prevention objective the event can proceed. Applicants for temporary event notices do not have to hold a personal licence but non-licence holders are limited to 5 in one year, a personal licence holder can have up to 50 temporary events. There is a maximum of 12 temporary events per year in respect of one premises.
<b>Transfer</b>	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
<b>Variation</b>	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.

**FYLDE B.C.LICENSING POLICY 2008 -2011  
CONSULTATION  
UNDER THE  
LICENSING ACT 2003**

**REPRESENTATIONS and RESPONSES RECIEVED**

**Consultation Period: 15<sup>th</sup> August 2007 to 10<sup>th</sup> October 2007**

**Issued 17<sup>th</sup> October 2007**

## REVISED LICENSING POLICY - SCHEDULE OF RESPONSES

Relevant Paragraph of Policy	Respondent	Comments Received	Assessment of Comments	Recommended Action
Whole document	Punch Taverns	Thank us for the opportunity to comment on the draft statement. Make the point that they have a number of premises in the area so the review is significant to them. However, on this particular occasion they explain that they have no comments to make	Broadly supportive of the draft policy	No policy change required
Whole document	Roman Catholic Diocese Lancaster	Fully support the objectives of the Council and parliament as set out in paragraph 3.1 of the draft policy statement.	Supportive of the draft policy	No policy change required
Whole document	Ribby with Wrea Parish council	Consider that the policy is an excellent document which clearly highlights the changes that have taken place in licensing policy.	Supportive of the draft policy	No policy change required
Whole document	Lytham Catholic Club	Considered the document and have nothing further to add to it.	Broadly supportive of the draft policy	No policy change required
Whole document	LCC Directorate for Children & Young People	Appreciate that young people have been recognised as important in the consultation process for this draft policy but feel that the document falls short of being young person friendly and consider that this hinders quality feedback.	This appears to be a criticism of the actual consultation process rather than of the document itself. It is accepted that the document is not particularly easy for young people to quickly understand but this has, to some extent, to be balanced against the fact that it deals with a complex topic for a broad range of stakeholders. Nevertheless, the comments will be taken on board for any similar consultation exercises.	No policy change required

Introductory paragraph	Wyre B.C. Legal Officer	<p>Unhappy with using the word 'partnership' as it specifically implies a formal arrangement, and would prefer the terms liaison or conjunction.</p> <p>Also uncomfortable with using the word 'identical' in respect of the two policies as it is incumbent on each authority to produce its own statement based on the particular requirements of its area and on that basis they should not be identical. Suggest that the phrase 'similar in principle' is used in stead.</p>	This is a reasonable point in terms of the strict legal requirements of the legislation.	<p>Amend the policy by substituting the following for the original last line of this paragraph.</p> <p>'Wyre &amp; Fylde Councils have, accordingly, worked together to produce this Licensing policy.'</p>
3.1 and 5.1 Licensing Objectives and Exclusions from the policy	North Lancashire Teaching Primary Care Trust	<p>It is interesting to note from the Policy that the Licensing Objectives clearly include issues of the wider determinants of health, "the prevention of crime and disorder; public safety; the prevention of public nuisance and the protection of children from harm" and yet excluded from the policy through the "scope of the Licensing Act 2003" are issues of "health promotion, road safety etc."</p> <p>There is some lack of clarity here with issues of health being both included and yet excluded from the policy. Issues of public health need to be integral to the purpose and objectives of the policy and if necessary the case needs to be made for any required changes to legislation to reflect this.</p>	<p>The point that several, if not all, of the four licensing objectives have a significant bearing on health is well made. The problem here is that the law and its associated guidance effectively preclude licensing authorities from addressing any issues which are outside the defined licensing objectives within their licensing policy documents.</p> <p>In Scotland, the influence of licensing policy and practice on the levels of alcohol related harm in communities has been acknowledged by including the objective of protecting and improving public health as one of the licensing objectives. In contrast, the promotion of public health is, unfortunately, specifically excluded from the licensing objectives for authorities in England &amp; Wales. Issues concerned with public health must, accordingly, remain outside of the remit of the licensing policy. The government are clearly well aware of this contrast but do not appear, at the moment, to have the appetite to make the legislative changes necessary to make public health a priority within Licensing Act controls.</p> <p>The authority, however, shares the Primary Care Trust's concerns regarding the problems that can be associated with alcohol consumption. It is, therefore, considered that the Licensing Policy could, perhaps be usefully strengthened to highlight the negative impacts associated with alcohol consumption</p>	Amend the policy by introducing a new paragraph at 9.6.1 to say 'the Council recognises the links between excessive alcohol consumption and poor health. Whilst the promotion of public health is not a licensing objective, the Council will seek to address the negative impacts associated with alcohol consumption through its links with other related bodies e.g. the North Lancashire Teaching Primary Care Trust and the Local Strategic Partnership. In this respect particular regard will be given to the National Alcohol Harm Reduction Strategy'

3.3 Licensing Objectives	North Lancashire Teaching Primary Care Trust	In addition to the stated partnership arrangements these need to include representation from health in order to give full consideration in meeting the Licensing Objectives. Reference to the PCT needs to be made as it is a statutory body of Crime & Disorder reduction Partnerships (CDRPs) and therefore has a duty to contribute to the reduction in crime, however, it has no statutory duty in the licensing process. There is a need to review this arrangement, even if only on a non statutory basis in the first instance and it would be good to see acknowledgement of this in the policy particularly as alcohol is an increasing issue and risk for all.	See detailed comments at 3.1 and 5.1 above  Despite the comments above, in the broad context of paragraph 3.3, it does not seem unreasonable to add reference to the Primary Care Trust in terms of the partnerships which will be used to help achieve the licensing objectives	Amend the policy by adding  'drugs and alcohol, planning' to the range of measures the licensing authority will use to achieve the licensing objectives  And by adding  'the Primary Care Trust' to the partnerships which will be used to assist in achieving the objectives.
4.1 Purpose and extent of the policy	North Lancashire Teaching Primary Care Trust	The purpose and extent of the policy needs to include raising awareness and understanding of the impact of licensing decisions on increased access to alcohol as a health risk and not just on crime reduction.	See detailed comments at 3.1 and 5.1 above. This effectively precludes raising awareness and understanding of the impact of licensing decisions on increased access to alcohol as a health risk and not just on crime reduction.	No policy change
5.1 Exclusions from the policy	North Lancashire Teaching Primary Care Trust	The Policy states that it excludes health promotion through the scope of the Licensing Act 2003 (see also comments above). However, the policy is involving itself in elements of health as it focuses on crime reduction and public safety, which clearly impact on the public's health. The police play a public health role in limiting alcohol intake and this cannot be separated from crime reduction as the two impact on each other. The Policy acknowledges that it impacts on a number of other issues that are also health related including: race equality, transport etc.	See detailed comments at 3.1 and 5.1 above.  Paragraph 5.1 does in fact clarify that 'These and similar matters are of great importance but are covered by other legislation. The Licensing Act 2003 should not be used as a substitute for any other legal controls'.	No policy change
6.2 Application of Guidance	Bargain Booze/ Thorouhgoods	Consider that the changes introduced in the new draft policy are by and large sensible and reflect the 'real world' application of the Licensing Act 2003. Feel, however, that paragraph 6.2 is too widely drafted to provide comfort that the letter & spirit of the Act will always be upheld. Make the	A reasonable point in as much as Paragraph 6.2 currently reads 'In relation to the guidance, the licensing authority must have regard to it, but can, if it considers it appropriate, deviate from the guidance. It must, however, have good reasons to justify doing so.'	Amend the final sentence of 6.2 by substituting the following  'reason to do so as long as it is able to provide

		point that, if misapplied, the clause could give 'carte blanche' to the Council to utilise its discretion rather than apply the Act as intended by the government and feel that terms such as 'good reasons to justify doing so' are too loose and subjective. For these reasons they consider that paragraph 6.2 should be deleted.	Whereas the guidance actually states: 'A licensing authority must have regard to the guidance ..... The requirement is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and as long as licensing authorities have properly understood the Guidance they may depart from it if they have reason to do so as long as they are able to provide full reasons'.	full reasons and the individual circumstances merit such a decision in the interests of the promotion of the licensing objectives.' For the words 'good reasons to justify doing so.'
9.2 & 9.3 Race Equality & Disability Discrimination	Wyre B.C. Legal Officer	Feel that the two sections covering race equality & disability discrimination should be extended to include discrimination against gender, age, sexual orientation etc. Suggest replacing both paragraphs with:-  <b>9.2 Diversity</b> All licensing activities will be undertaken in compliance with the authority's diversity policies and all related legislation.	Agree. Discrimination against gender, age, sexual orientation etc are all equally as important as Race Equality & Disability Discrimination in this context. A single paragraph on diversity would appear to be the best way of covering all these issues.	Amend the policy by deleting paragraphs 9.2 & 9.3 and substituting the following:  <b>9.2 Diversity</b> All licensing activities will be undertaken in compliance with the authority's diversity policies and all related legislation.'
9.6 Alcohol Harm Reduction Strategy	North Lancashire Teaching Primary Care Trust	Section 9.6 states "the Authority encourages licensees to give consideration to the National Alcohol Harm Reduction Strategy (AHRS), in particular the contribution it can make to reducing harm by irresponsible consumption of alcohol". It would be interesting to know at a district and local level just how familiar licensees are with the AHRS and what opportunities are being taken in raising awareness of the strategy and meeting its aims.  This is the key to recognising that the Authority, along with partners (including health), can have a role in reducing the levels of harm associated with alcohol. In fact the AHRS is a "coordinated and concerted approach to support a change in drinking culture and highlights that the local authority along with the NHS, police, alcohol industry, the wider business community all have a vital role to play" (Safe. Sensible. Social – the next steps in the National Alcohol Strategy 2007).	It is well recognised that the Authority, along with partners (including health), can and should have a role in helping to reduce the levels of harm associated with alcohol.  The fundamental problem here is that the Licensing Policy can only be a statement of policy in respect of the Council's role when acting specifically as a 'Licensing Authority' as distinct from its much wider remit as a 'Local Authority'.	No Policy change

10 Live music, dancing and theatre	North Lancashire Teaching Primary Care Trust	The emphasis on Section 10, Music, Dancing and Theatre can also help to address the key focus of the AHRS in promoting sensible drinking by influencing the issue of licences that increase the positive social elements associated with alcohol, rather than just focusing on the negative anti social aspects and crime reduction. This can have potential in encouraging parents and young people enjoying their leisure time together and encourage sensible drinking.	The authority very much supports the promotion of the positive social elements associated with alcohol consumption. Several paragraphs of the policy make this clear for example:  '10.2 The Council subscribes to the view expressed in the Guidance to the Act that the absence of cultural provision in any area can lead in itself to a loss of community awareness and can expose young people to anti-social activities that damage local communities'  '12.1. The authority wish to see 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.'  '22.1 Nevertheless, the licensing authority has taken account of the view of the Government that the creation of family-friendly licensed premises should be encouraged.'  This is an important issue and it may well be useful to spell out even more clearly the authority's commitment to encourage family-friendly licensed premises.	Amend the policy by adding the following new third sentence to paragraph 12.1:  'It is keen to encourage family-friendly licensed premises and to promote premises where families are welcomed and where suitable entertainment is provided.'
13.1 Advertising an application	The Licensing practice Ltd.	Make the point that the requirement that 'the application must confirm that such advertising or notification has been properly made' is clearly not a legal requirement.	Agree that confirming advertising or notification has been properly made is not strictly a legal requirement.	Amend the policy by substituting 'applicants are advised to' for 'the application must confirm'
16.1 Operating Schedules	The Licensing practice Ltd.	Considers that the requirement that 'The operating schedule ... should be fully completed for all relevant applications' is misleading in that some (albeit few) applications can sometimes be so simple that the operating schedule can quite properly be left entirely blank.	It is considered that the applicant should make it clear on the application that they have considered rather than just ignored the operating schedule even if this is only by inserting 'None'.	Amend the policy by removing the word 'fully' before 'completed'.

19 Prevention of crime and disorder	North Lancashire Teaching Primary Care Trust	Section 19 includes prevention of Crime and Disorder and has many sections e.g. underage drinking, drinks promotions, drugs, responsible promotion of alcohol drinks but they are included because of the links to Crime Reduction rather than recognising the equally important impacts on health.	See detailed comments at 3.1 and 5.1 above.  The policy has been able to include such issues as underage drinking, drinks promotions, drugs, responsible promotion of alcoholic drinks only because of their links to Crime Reduction.	No policy change
19.5.1 Pubwatch Schemes	– Licensing consultancy Services Ormskirk	Consider insisting that licensees <i>SHOULD</i> become active members of Pub Watch schemes is too restrictive and can lead to licence holders being threatened with review of their licence simply because they do not attend Pub Watch meetings. Suggests that 'should' is replaced with 'are encouraged to'.	Agree that a requirement for licensees to become active members of Pub Watch schemes is too restrictive.	Amend the policy at 19.5.1 by substituting 'are encouraged to'.  For 'should'
19.7.2 Crime and Disorder and Nuisance around Licensed Premises	The Wine Cellar Limited	Concerned as to what will constitute the 'reasonable steps' that a licence holder will be expected to take to address crime, disorder or nuisance around their premises. Makes the point that, in tackling such issues, staff safety must be a priority.	The 'reasonable steps' that a licence holder would be expected to take in addressing crime, disorder or nuisance in the immediate area of their premises would clearly not include any measures that would be likely to put the health & safety of their staff at risk.	Amend the policy by adding to the end of the first sentence of 19.7.2:  'and having regard to the health and safety of their staff.'
19.15.1 Police closure notices	Licensing consultancy Services Ormskirk	Makes the point that Closure Orders relate to Police Powers to secure closure of licensed premises under the Licensing Act 2003 whereas Closure Notices relate to Police closure powers for unlicensed premises under section 19 of the Criminal Justice & Police Act 2001 and the reviews should follow police Closure ORDERS rather than Closure Notices	This point is well made. Closure Orders rather than Closure Notices should prompt a review of a licence. The Violent Crime Reduction Act 2006 (s. 53A), however, also allows for a senior police officer to give a Certificate that premises are in their opinion associated with serious crime or serious disorder or both following which the Licensing Authority must review that licence.	Amend paragraph 19.15 of the policy to read as follows:  <b>'19.15 Police Closures</b> The licensing authority will work closely with the police to review the licences of premises where a Police Closure Order has been served or a Certificate has been issued under Section 53A of the Violent Crime Reduction Act 2006.'



20 Promotion of public safety	North Lancashire Teaching Primary Care Trust	<p>Promotion of public safety positively acknowledges that the Licensing Authority is committed to ensuring physical safety of those using licensed premises. However, this could go further and include more specific expectations that will help protect members of the public as well as their staff. These could include training for staff, polycarbonate glass schemes (this should also be included in section 19.10 glasses and bottles), 'Best Bar None' schemes, and campaigns on alcohol education e.g. on units, measures, drink driving, improved labelling, incident logs.</p> <p>This is similar to the coordinated approach with the introduction of the Tobacco Control Regulations to encourage safer environments for people to drink in and staff to work in.</p>	<p>The official guidance which supports the legislation is very specific about what licensing authorities can and can't include under the heading of 'Public Safety'. Section 2.19 of the guidance states 'Licensing authorities and responsible authorities should note that the public safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation. There will of course be occasions when a public safety condition could incidentally benefit health, but it should not be the purpose of the condition as this would be ultra vires under the 2003 Act' and at section 9.26 specifically cautions that 'conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.'</p> <p>The guidance, furthermore, requires that authorities include nothing in their policies which would be a duplication of other regulatory or legislative regimes.</p>	No policy change
22.5.1 Proof of Age Schemes	British beer & Pub Association	<p>Suggest a minor correction to the list of IDs. The third one down should probably read <b>Proof of Age Standards Scheme Cards (PASS)</b>, which you go on to support in the following paragraph. Also, please note that PASS includes the Citizen Card which is listed separately.</p>	<p>Agree that the terminology in respect of PASS could be improved.</p>	<p>Amend the policy by changing bullet point 3 to reads 'Proof of Age Standards Scheme Card (PASS</p>
Section 22 Protection of children from harm	Wyre B.C. Legal Officer	<p>Advise that no reference is made to film classifications as suggested in paragraph 13.53 of the guidance.</p> <p>Therefore, recommend an extra paragraph :-</p> <p><b>22.8 Film Classifications</b></p> <p>In the case of premises giving film exhibitions, the Licensing Authority 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.</p>	<p>Agree that paragraph 13.53 of the guidance advises that the statement of policy should make clear that in the case of premises giving film exhibitions, the licensing authority 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 Classification or the licensing authority itself.</p>	<p>Amend the policy by adding:</p> <p><b>22.8 Film Classifications</b></p> <p>In the case of premises giving film exhibitions, the Licensing Authority 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</p>

				British Board of Film Censors or the Licensing Authority itself.
22.4 Sale and supply of alcohol to children	North Lancashire Teaching Primary Care Trust	The sale and supply of alcohol to children – whilst the policy supports conditions that help to reduce the sale of alcohol to young people i.e. by promoting the use of proof of age schemes, there could also be additional conditions to protect children, including protection from access to cigarette and gambling machines.	See detailed comments at 3.1 and 5.1 above regarding controls over children’s access to cigarette machines.  Conditions to protect children, from access to gambling machines are, however, dealt with fully in the authority’s separate Gambling Policy.	No policy change
25.2 Defining ‘in the vicinity of premises’	The Wine Cellar Limited	Extremely concerned that a distance of 150m appears to be being used to determine what is meant by the term ‘in the vicinity’ particularly when it is not defined by the Act. Makes the point that, in terms of paragraph 19.7.1(licensees dealing with crime, disorder or nuisance around their premises) such a distance would be completely unreasonable.	Paragraph 25.1 explains that the term “in the vicinity” is not defined and recognises that this is a subjective issue which will ultimately be decided by the Courts. It goes on to clarify that, as a guideline, the authority regards the term as meaning a residence or business sufficiently close to the premises to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside as a result of the activities taking place. Paragraph 25.2, which does include reference to initially using a radius of 150m from the curtilage of the application premises, is a paragraph specifically and only concerned with the process to be followed in determining if representations are ‘in the vicinity’ of an application. The confusion here seems to in use of the phrase ‘in the vicinity’ in paragraph 19.7.1 which deals with licensees addressing crime, disorder or nuisance around their premises. Although the extent of responsibility is clarified in paragraph 19.7.2 as ‘immediately outside their premises’ it may be helpful to remove the ‘in the vicinity’ phrase from 19.7.1	In order to avoid any confusion regarding licensees responsibilities for dealing with crime, disorder or nuisance around their premises. amend paragraph 19.7.1 the policy by deleting:  ‘...in the vicinity of licensed premises.....’  and substituting  ‘...in the area immediately around licensed premises.....’

<p>27.3 to 27.5 the role of local councillors, parish and town councillors in licensing matters</p>	<p>Fylde B.C. Legal Officer</p>	<p>The paragraphs which explain the role of local councillors (and to some extent those of parish or town councillors) in licensing matters, particularly in respect of their responsibilities under the authority's Code of Conduct could be clearer and more succinct. Suggest the following</p> <p><b>27.4</b> Individual Ward, parish or town Councillors may not make representations in their own right unless they live or have a business in the vicinity of the premises. But they may represent an interested party at a hearing if that person has asked them to in writing. The authority will need to see the written request before the hearing.</p> <p><b>27.5</b> All local councillors are subject to the authority's Code of Conduct. This normally means that they cannot participate in meetings to discuss matters, in which they have a 'prejudicial' interest (i.e. an interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest). But there is an exception where a councillor attends a licensing hearing to make representations, answer questions or give evidence. as long as they withdraw from the meeting immediately afterwards.</p> <p><b>27.6</b> No councillor, even if they are a member of the Licensing Committee, can vote or otherwise take part in making a decision at a hearing (as opposed to making representations as above) unless they are a member of the panel for that hearing.</p>	<p>The suggested revised wording for these paragraphs explains the roles and responsibilities of local councillors as well as parish and town councillors more clearly and more concisely.</p>	<p>Substitute the 3 suggested new paragraphs set out in column 3 for the original 2 paragraphs 27.4 and 27.5. and renumber the original paragraphs 27.6 &amp; 26.7 as 26.7 &amp; 26.8.</p>
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30 Cumulative impact	The Wine Cellar Limited	Makes the point that any Cumulative Impact Policy should take into account the difference between on and off licensed premises.	<p>The official guidance on Cumulative Impact Policy states that 'It would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises.'</p> <p>Paragraph 30.1 of the policy refers to '...where the number, type and density of premises selling alcohol for <i>CONSUMPTION ON THE PREMISES</i> are unusual...'</p> <p>Nevertheless, the situation could be made even clearer by qualifying the term 'licensed premises' in paragraph 30.3:</p>	<p>Amend the policy by adding the following after the words 'licensed premises' in paragraph 30.3:</p> <p>'selling alcohol for consumption on the premises'</p>
31.1	Wyre B.C. Legal Officer	Consider that adding the words ' in public places ' at end of the 3 <sup>rd</sup> bullet point-in respect of Local Authority drinking bans, would clarify the circumstances when such controls could be imposed.	Agree that the addition of 'in public places' at end of the 3 <sup>rd</sup> bullet point would help to clarify the circumstances when drinking bans could be imposed	<p>Amend the policy by adding:</p> <p>'in public places' at end of the 3<sup>rd</sup> bullet point.</p>
37.1 Authorisations for the sale of alcohol	'The Wine Cellar Limited	The policy appears to be in conflict with the official guidance in that this clearly does not envisage a personal licence holder being on the premises at all times.	<p>It is agreed that the guidance does not envisage a personal licence holder being on the premises at all times.</p> <p>Paragraph 37.1 indeed makes it clear that although 'every supply of alcohol must be made under the authority of a personal licence holder this does not mean that .....they must be personally present at every transaction.' Whilst the paragraph goes on to explain that 'At least one personal licence holder would normally be expected to be on the premises when alcohol is being sold' it accepts that '<i>IF A PERSONAL LICENCE HOLDER IS NOT ON THE PREMISES</i> for any reason, provision should be made for the immediate contact.....'</p>	No policy change

<p>Para 39 Enforcement</p>	<p>British beer &amp; Pub Association</p>	<p>Would welcome recognition of the Hampton principles of inspection and enforcement in this section, which include the following:</p> <ul style="list-style-type: none"> <li>▪ No inspection should take place without a reason</li> <li>▪ Regulators should recognised that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection</li> </ul>	<p>The Legislative and Regulatory Reform Act of 2006, contains powers to enable the Hampton principles to be established in UK law through a statutory Regulators' Compliance Code. Regulators will then be legally obliged to have regard to the Hampton principles in deciding their policies and principles, and in setting standards and in giving advice. The Government intends that this should come into force on 1 April 2008.</p> <p>This Council is committed to driving forward improvements in their regulatory services and believes that authority's existing Licensing Enforcement Policy already fulfils many of the requirements of the Code by working to a risk based approach, by providing information and advice to businesses to aid compliance and by asking regulated entities what they think of their services through customer satisfaction surveys</p> <p>Paragraph 39.2 makes it clear that 'Enforcement action in respect of licensing matters will be taken in accordance with the authority's Licensing Enforcement Policy and will be targeted, proportionate and transparent. The inspection of premises will be undertaken, when necessary, on a risk assessment and targeted basis, ensuring that resources are concentrated on high risk and problem premises and activities.'</p> <p>It is considered that this statement should provide sufficient reassurance to the trade in respect of the authority's approach to enforcement.</p> <p>Once the statutory Regulators' Compliance Code referred to above is enacted, it will, no doubt, be necessary to make some minor changes to the authority's Licensing Enforcement Policy to encompass some of the Hampton principles. The wording of 39.2 as it stands will, however, then automatically ensure that these effectively become part of the Licensing policy.</p>	<p>No policy change</p>
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General comments	Myerscough & Bilsborrow Parish Council	Make a general comment on the fact that alcohol related incidents are on the increase and under-age purchases need to be addressed	The sale of alcohol to persons under-age will remain a criminal offence and licensing policies must not duplicate other regulatory or legislative regimes. Nevertheless, the Licensing Authority shares these concerns regarding alcohol related incidents and under-age purchases and they have been addressed throughout the document. Although paragraphs 19.3 and 22.5.1 deal specifically with preventing underage sales, it is considered, on reflection, that this issue is so important that it may well be worth adding specific reference to it in terms of enforcement.	Amend the policy by introducing the following new paragraph under section 39 (Enforcement)  '39.5 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 the Licensing Authority shares this concern. It will, accordingly, 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.'
General comments	Miss Yui Chow Dolce Vita 30 Nutter Road Thornton Cleveleys	Feels that the Premises Licence should be updated each year after paying the annual fee and would like to be able to make relevant changes to conditions such as opening hours each year free of charges with the costs of doing so being borne out of the annual renewal fee.	Unfortunately the issues raised here are in respect of the primary legislation (Licensing Act 2003) which prescribes, in some detail, the various administrative processes associated with applications and the issue of licences. These are, therefore, matters of law which cannot be changed by policy decisions.	No policy change
General comments	Mews Restaurant 7/8 Chapel Street Court Poulton-le-Fylde	Concerned that patrons appear to have been stopped from standing outside various named pubs in Poulton town centre. Considers that this has changed the dynamics of Poulton and discouraged customers from coming to the town at night making it much quieter.	The licensing policy played no part in either permitting or preventing customers from standing outside various pubs in Poulton town centre. This was clearly an initiative related to road safety and is related to the specific local conditions of licence rather than policy.	No policy change

General comments	Forton Parish Council	<p>It should be an offence to have liquor/beer in a car (except in the boot)</p> <p>Shopkeepers who sell to underage people should be more heavily fined as should those who buy on behalf of youths.</p> <p>Current licensing policy adequately covers licensed premises and events.</p> <p>Outside noise needs to be considered now the no smoking ban is in place.</p> <p>Educating people about the misuse of alcohol is as important as licensing.</p>	<p>Whilst these are reasonable points, they are largely outside the purview of licensing policy Specifying offences and maximum fines can, for example, unfortunately only be achieved through statute law over which policy can have no influence.</p> <p>Paragraphs 21.51 and 21.5.2 deal with the issues related to noise from the premises, whether from the inside or the outside.</p> <p>The authority shares this concern regarding education in respect of the problems that can be associated with alcohol consumption. (see comments at 3.1 and 5.1 above). The promotion of public health is, however, unfortunately, specifically excluded from the licensing objectives and such issues must, accordingly, remain outside of the remit of the licensing policy.</p>	No policy change
General or Further Comments	North Lancashire Teaching Primary Care Trust	<p>The Policy needs to address the Licensing Authority's role and responsibilities as a key influence in alcohol harm reduction; this might be through the inclusion of an additional objective for example. Pressure for legislative change and clarity should be sought if necessary.</p> <p>As the Licensing Authority have the power to grant applications for new premise licences, club premises certificates or variations to licences and certificates, this could include having a role in influencing levels of access to alcohol not only for crime reduction but also to reduce the risks to the health of individuals in the community and on population health.</p> <p>Alcohol is a key priority of the Local Strategic Partnership in Fylde and the Licensing Authority by developing its partnership arrangements can play an important role in addressing the issues in the Community Plan associated with alcohol</p> <p>With reference to the wider impacts of licensing and public health and in ensuring public safety, operating schedules need to include issues such as adequacy of sanitary arrangements,</p>	<p>As explained at 9.6 above, the Licensing Policy can only be a statement of policy in respect of the Council's role when acting specifically as a 'Licensing Authority' as distinct from its much wider remit as a 'Local Authority'.</p> <p>Because of the way the law is currently framed, licensing authorities hands are largely tied in respect of influencing levels of access to alcohol 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</p> <p>See detailed comments at 3.1 and 5.1 above</p> <p>See detailed comments at 3.1 and 5.1 above</p> <p>The guidance also requires that authorities include nothing in their policies which would be a duplication</p>	No policy change

		availability of qualified first aid support, structural condition of the premises and state of repair with risk assessments being undertaken. Impact assessments would encompass these strands of public safety and health.	of other regulatory or legislative regimes.	
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# REPORT



REPORT OF	MEETING	DATE	ITEM NO
EXECUTIVE MANAGER (COMMUNITY AND CULTURAL SERVICES)	POLICY AND SERVICE REVIEW	25 OCTOBER 2007	6

## FUTURE MANAGEMENT OF SWIMMING POOLS

### Public Item

This item is for consideration in the public part of the meeting.

### Summary

The report examines the results of the recent tender process for the future management of the council's two swimming pools at St Annes and Kirkham and provides a range of options for delivery of a swimming service in the urban and rural areas.

### Recommendation

1. That Members of the Policy and Service Review Scrutiny Committee examine the available options based on the information contained in this report and make their recommendations for future delivery of urban and rural swimming service to Cabinet to consider at its meeting on 14 November 2007.

### Cabinet Portfolio

The item falls within the following Cabinet portfolio:  
Cultural and Tourism                      Councillor Simon Renwick

### Report

#### Background

2. Members will recall that at their meeting held on the 13<sup>th</sup> September 2006 the Cabinet debated the issues around the future delivery of the swimming service. The Cabinet's decision at that time was:

3. *Subject to a full building survey being undertaken of the St. Annes/Kirkham pools to determine refurbishment costs, further consideration be given to externalise via part repairing lease with an option to invest in new/existing facilities and to retain in house and invest in new/existing facilities*

This decision followed a full report which detailed:

A comprehensive public consultation programme

The consultation process included questionnaires completed by both users and non users of the council swimming facilities as well as public meetings with pool user groups, swimming clubs and staff. In total, 545 completed questionnaires were returned. \*

Site visits to facilities

Members of the Policy and Service Review Scrutiny Committee had asked for full structural surveys to be conducted at the pools and subsequently made site visits to both facilities. These surveys\* and visits indicated, as far as possible, the likely maintenance work needed to keep the pools operational for the next 15 years and that either pool could be augmented by the addition of fitness suites.

A programme of soft market testing with external leisure providers

The report detailed the findings of the soft market testing with leisure providers. The aim of the soft market testing exercise was to gather as much information as possible on the types of contract and the potential financial benefits that are available so that all possible options could be explored and a preferred course of action agreed.\*

An informal review of the process by the 4ps, a government body specialising in advising public bodies at no direct cost

Their advisor visited the Council on 20<sup>th</sup> February 2006 and recommended we need to give attention to:

- providing clarity of objectives
- prioritising the different strands of the project
- slowing down the discussions with the YMCA
- revisiting the business case for the project
- undertaking an options appraisal
- carrying out community/stakeholder consultation
- exploring funding options
- defining the procurement strategy
- formally market testing the project
- establishing a programme/project board to manage the change management programme

\* Website links to the above are listed at the end of this report

### **The Tender Process**

4. Following their analysis of the above information the Cabinet gave officers authority to explore the two options as shown in paragraph 3

**Option One** - externalising via part repairing lease with a further option to invest in new/existing facilities.

or

5. **Option Two** - to consider retaining management of the pools in-house with a further option to invest in new/existing facilities.
6. A Project Plan was established to outline the timescale for this process with the aim of presenting the findings to Cabinet in September 2007. In order to reduce the costs of this process the Council compiled the comprehensive tender documentation using existing officer resources. The timescales were subsequently delayed due to one of the prospective tenderers requested a short extension to the deadline. This was agreed to ensure that the council received a tender from every possible interested party.
7. The tender document requested leisure providers to tender on the basis of a part repairing management agreement for the two pool facilities.
8. Initially the council was looking for a bid to manage the pools to the same level as they are currently managed. However, the council indicated that prospective tendering companies consider implementation of a range of service improvements, such as a leisure card, QUEST quality accreditation, fitness suites and a new pool build at Kirkham.
9. Tenderers were asked to submit proposals on how they would address these requirements with full cost analyses and an indication made where the added functionality may result in savings to the council and an improved service to the customer.
10. Officers developed a scoring matrix following the council's standard procurement process which gave weightings according to the council's priorities. The scoring was also weighted 60/40 - price to quality.
11. The invitation to tender was advertised in a national trade publication and issued to all leisure companies who participated in the soft market testing. The invitation was also posted on the council's website.
12. A full summary of the tender process carried out is attached as Appendix 1

## **The Findings**

13. The outcome of the tender process resulted in 8 expressions of interest with 5 leisure companies, including one other local authority trust, making site visits to the pools. By deadline just two companies had submitted tenders.
14. The two received tenders were assessed through the scoring process, initially for costs. A summary of these costs is included as Appendix 2. Members can see from this summary that the council's budget for existing service provision is shown in column 1 and compared with the tender prices from both companies. On this basis the Fylde Coast YMCA (FCYMCA) can provide the service for both pools for around £12,000 less per annum than the in-house costs. Parkwood Leisure is significantly higher at £97,667 more costly than the council's in-house service.
15. On the basis of these costs, and the weightings described in paragraph 10, Parkwood Leisure is effectively ruled out of the process and further consideration of other quality factors is not required.

16. Having demonstrated a 2.5% reduction on in-house costs the remaining external tender from FCYMCA has been assessed for the service improvements and benefits over the existing service that could be realised. This assessment also examined the potential advantages and disadvantages of externalisation. These are summarised in Appendix 3.

### **The Current Service**

17. The pools service is currently operated directly by the council at a net cost of £478,028. All maintenance is carried out either by the council or its directly employed contractors. Historically, investment in the two pool facilities has been limited. Maintenance has been carried out at two levels – routine plant operational maintenance is carried out on a scheduled contract. Larger one-off improvements have been subject to the council's budgetary pressures and carried out generally to prevent closure from non compliance or following equipment failure.

18. The staff are employed by Fylde Borough Council and benefit from local authority employment contracts and pension rights. Fylde, like many other pool providers, is suffering from a shortage of trained lifeguards which has come close, on occasions, to forcing temporary pool closures. The authority has embarked on a programme of in-house training with successful candidates being offered employment. This has been successful to a point.

### **19. Potential Service Implications of Out-sourcing (Option One)**

#### **Advantages**

#### **20. Service stability/employment security**

21. With a 15 year contract the uncertainty around the future delivery of the service, staff retention has presented particular challenges. It is expected that a period of stability will assist in staff retention. In the last month managers have received notifications of 5 staff members wishing to leave. It is also possible that staff sickness figures would improve as a result. The contract would enable the council to budget on the basis of known managerial costs over the full 15 years.

22. A reduction in running costs has been identified and this could be augmented by a reduction in central establishment charges through reduced HR and payroll support. However, this is difficult to quantify at this stage.

#### **23. Integrated service between Fylde/Wyre**

24. As the YMCA currently manage the leisure services at Wyre the addition of the Fylde contract would provide a good 'fit' with our aspirations for joint Fylde/Wyre delivery of services. This would have benefits to the resident and visitor through integrated marketing, purchasing, management ethos and social and health benefits.

25. There is merit in management through a local organisation as the YMCA is the largest voluntary sector provider of health and fitness services that promote physical activity and healthy living. Their national vision is of an inclusive Christian movement transforming communities so that young people truly belong, contribute and thrive. Every YMCA association like the FCYMCA is autonomously managed and works to meet the needs of young people in their local community.

26. Outsourcing would offer residents an ‘off the shelf’ leisure pass scheme that may be used in both Wyre and Fylde. With increased marketing it is possible that the number of swimmers would increase, particularly if offered an associated ‘dry’ facility as part of a leisure membership. The direct benefit to the council will be in meeting its National Performance targets for sport. Some of these being:

- To increase the percentage of Adults participating in at least 30 minutes moderate intensity sport and active recreation on three or more days a week.
- Reduce child obesity.
- Reduce subsidy per visit
- Increase attendances.

### **Disadvantages**

#### **27. Loss of control**

28. Outsourcing the pools management will inevitably result in the councils direct control of facilities. The specifications sets out the required governance arrangements as follows:

<b>Schedule Meetings</b>	<b>of</b>	<b>Contractor representative</b>	<b>Council representative</b>
Six monthly		Director	Director/Portfolio holder
Monthly		Contract Manager	Executive Manager
Weekly		Facility Manager	Leisure Manager

#### **29. Financial Obligation**

30. The contract is for a period of 15 years therefore the council will not have the option of reducing the budget provision for swimming during this period

31. Members should be clear that the option of postponing maintenance identified in the 15 year forecast attached (as Appendix 4) would **not** be available within the terms of the contract. There would be a risk that the council would be liable for compensation payments due to unforeseen closure of the pools. Therefore the council would have to include these costs in the medium term financial plan. The costs are estimated at £1,508,365 based on current prices.

### **Further Options**

32. Having examined the council’s options for future service delivery based on the current level of service through the tender process the Community and Cultural Services Executive Manager has also explored the options for service improvement, partly from the information provided by tenderers but also based on the council’s need to demonstrate significant budgetary investment or savings.

33. It is stressed that any of these options can be actioned in conjunction with either Option One or Option Two
34. Through the tender process officers have examined a number of assumptions and established the true position.
35. **Assumption 1** - Private leisure companies will invest significant levels of funding to provide Fylde with either new fitness facilities or to fund the construction of a new pool at Kirkham
36. **Fact** – Neither of the interested tenderers are willing nor able, to invest capital in these facilities. Despite recognising these developments as possible options they consider that the council should provide the necessary capital. The soft market testing process showed that the private sector consider that council's are often able to secure prudential borrowing significantly cheaper than the private sector. This will be explored as part of this report.
37. **Assumption 2** – There are many leisure providers who willing or able deliver a swimming service cheaper than the in-house service provider.
38. **Fact** – The extensive tendering process, which reliably reached all major national leisure providers, failed to generate interest from all but two. Of these the cash savings can only be demonstrated by one and this is due to the savings which the YMCA are entitled to on business rates
39. When considering the further options members should be mindful that any additional investment can probably only be accessed directly from the council. Officers have also looked into the possibility of grant funding and can report that the only previous source, Sport Lottery, has largely ceased.

40. Further options for consideration are:

**Option Three** - Invest in fitness suites at either or both pools

**Option Four** - Invest in a replacement pool for Kirkham

**Option Three – Invest in fitness suites at either or both pools**

41. By only offering swimming at the council's leisure venues the council potentially misses out on attracting customers who require 'leisure centre' facilities such as gymnasiums, fitness classes and other 'dry' provision. Officers and Members have long recognised the advantages of this provision in providing an all round fitness programme. The soft market testing and tendering process have provided an opportunity to get an industry endorsement for this view.
42. As described in paragraph 39 the funding for these facilities would need to be found directly from the council. Based on the costings provided by the YMCA the council would have to invest according to the following model

Facility	Capital cost	Revenue cost per annum ( 25 years)
----------	--------------	------------------------------------

Fitness suite – St Annes Pool	£530,000	£47,700
Fitness suite – Kirkham Baths	£308,000	£27,720
<b>Total</b>	<b>£838,000</b>	<b>£75,420</b>

43. If externalisation is also pursued, the benefits of an all round fitness suite could be strategically marketed to increase users. Members should remember that any increased income would not come directly to the council as part of this agreement.

#### **Option Four - Invest in a replacement pool for Kirkham**

44. In March 2005 the Leisure Trust feasibility report conducted by Knight, Kavanagh and Page recommended that the council should assess the potential to fund the development of a new swimming pool for Kirkham. The main driver for this recommendation being the need for significant future investment in the existing Kirkham Baths, which could be more effectively used in the provision of a modern and efficient new facility in the area with perhaps the option of a fitness suite and other dry side activities. Since the report was published the conditions survey, shown in appendix 4, has shown that Kirkham Pool is largely fit for purpose, requiring £698,665 over the next 15 years.

45. This could possibly indicate that the need for a new facility is not as great as first thought

46. For any new pool option to be realistic it is probable that the capital receipt from the current site as well as capital borrowing of between £2 - £4 million would be required at a cost of £180,000 - £360,000 per annum to the council based on a 25 year loan period. The cost of a new pool would depend on the type of facility that the council would require. The lower cost would provide for a small, stand alone pool. If 'dry side' facilities and a 25m pool are required Members should expect to pay in the region of £4m

47. However, Members should bear in mind the current revenue costs of £478,028 should only be allocated after assessing the value of Kirkham Baths against corporate priorities.

#### **Conclusion**

48. Determining the future of facilities that have been traditionally run by the council for many years is a major decision and it has taken a considerable amount of time and research to provide Members with as much information as possible. The work carried out through a Best Value review, by consultants to advise on the future of swimming provision, the subsequent analysis by the 4ps, the soft market testing and the resulting tender process have brought us to the current options identified in this report.

49. The option of externalisation brings advantages, financial stability is on offer although the required investment in maintenance and funding improved facilities may well be beyond the council's means for a discretionary service, vying for resources against the council's identified priorities.

50. The original objective was to reduce subsidy per user. The options presented here could achieve this as well as improve swimming provision, either by investment, or concentrating the council's resources into a reduced, yet 'fit for purpose' service.

51. The myth that the council can simply hand over the pools to a private leisure company that will invest thousands of pounds of its own money in swimming in Fylde has been shown to be unrealistic. So has any thought that the council is currently running an inefficient service. The available options are clear but require decisive action.

52. Parallel discussions on joint working between Fylde and Wyre would be enhanced by opting for externalisation (option one) although, this and the alternative options could contain a number of variables.

IMPLICATIONS	
Finance	The finance implications are set out in the report.
Legal	No further issues
Community Safety	No further issues
Human Rights and Equalities	None arising directly from the report.
Sustainability	Sustainability issues have been fully explored through the tender process.
Health & Safety and Risk Management	The preferred option will be fully risk assessed prior to contractual commitment

Report Author	Tel	Date	Doc ID
Paul Norris	(01253) 658440	October 2007	

List of Background Papers		
Name of document	Date	Where available for inspection
Pools satisfaction survey Pools conditions survey Results of soft market testing Pools tender documents	2006	<a href="http://www.fylde.gov.uk">www.fylde.gov.uk</a>

#### Attached documents

Appendix 1 – Swimming Pools evaluation report

Appendix 2 - Financial appraisal of tenders

Appendix 3 - Summary of advantages/disadvantages of externalisation

Appendix 4 - 15 year pools maintenance programme





***The Management of Fylde Leisure  
Facilities Procurement***

**Evaluation Report**

Version: 0.1

Date: 11<sup>th</sup> October 2007

0 Document Control

0.1 Key Personnel

**Title:** Evaluation Report – Management of Fylde Leisure facilities Procurement

**Authors:** Allan Williams

**Approver:** Portfolio Holder

**Status:** Draft

**Document Ref:**

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0.2 Summary

This report documents the methodology that was used to undertake the evaluation process for the contracting out of the Leisure facilities for the borough of Fylde.

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0.3 Document Amendment History

<b>Version</b>	<b>Section</b>	<b>Reason for Update</b>
0.1	All	First draft

0.4 References

Cabinet Report

Date: 25<sup>th</sup> October 2007

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0.5 Distribution List

*Evaluation Team:*

Paul Norris  
Brian White  
Chris Holland  
Allan Williams

Executive of Cultural Services  
Executive of Finance  
Leisure Manager  
Procurement Officer

**Glossary of Terms**

ET	-	Evaluation Team
OJEU	-	Official Journal of European Union
ITT	-	Invitation To Tender.

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## 1. **Introduction**

- 1.1 A Members meeting was held on the 13<sup>th</sup> September 2006, where the Cabinet debated the issues around the future delivery of the swimming service. The Cabinet's decision at that time was:

*Subject to a full building survey being undertaken of the St. Annes/Kirkham pools to determine refurbishment costs, consideration be given to retain in house and invest in new/existing facilities and externalise via part repairing lease with an option to invest in new/existing facilities*

This decision followed a full report which detailed:

- 1.2 A comprehensive public consultation programme

The consultation process included questionnaires completed by both users and non users of the council swimming facilities as well as public meetings with pool user groups, swimming clubs and staff. In total, 545 completed questionnaires were returned. \*

- 1.3 Site visits to facilities

Members of the Policy and Service Review Scrutiny Committee had asked for full structural surveys to be conducted at the pools and subsequently made site visits to both facilities. These surveys\* and visits indicated, as far as possible, the likely maintenance work needed to keep the pools operational for the next 15 years and that either pool could be augmented by the addition of fitness suites.

- 1.4 A programme of soft market testing with external leisure providers

The report detailed the findings of the soft market testing with leisure providers. The aim of the soft market testing exercise was to gather as much information as possible on the types of contract and the potential financial benefits that are available so that all possible options could be explored and a preferred course of action agreed.\*

- 1.5 An informal review of the process by the 4ps, a government body specialising in advising public bodies at no direct cost

Their advisor visited the Council on 20<sup>th</sup> February 2006 and recommended we need to give attention to:

- providing clarity of objectives
- prioritising the different strands of the project
- slowing down the discussions with the YMCA
- revisiting the business case for the project
- undertaking an options appraisal
- carrying out community/stakeholder consultation
- exploring funding options
- defining the procurement strategy

- Formally market testing the project
- establishing a programme/project board to manage the change management programme

\* Website links to the above are listed at the end of this report

## **2. Management Summary**

### **2.1 Options**

**2.1.1** Out of five Suppliers who were invited to tender Parkwood Leisure and YMCA submitted their proposals.

**2.1.2** The evaluation was based on their Management structure, Company Information, Technical Resources, Company safety Policy, Equal Opportunities statement, Customer Care, Partnership in delivering the service and Price.

### **2.2 Outcome**

**2.2.1** The evaluation process helped to identify some key differences between the two suppliers. The main difference was on Price with Parkwood Leisure being £120K higher than the YMCA. The other area to stand out was on partnership in service delivery where the YMCA provided more detailed information on how this would be implemented over the life of the contract.

**2.2.2** YMCA was within the Councils budget; where as the costs of Parkwood was much higher and is reflected in the difference of the overall scores.

### **2.3 Recommendation**

**2.3.1** Therefore, the evaluation panel agreed that YMCA was considered to be the preferred supplier on affordability, and on experience in delivering the service in partnership with another public organization.

## **3. The Evaluation**

### **3.1 Purpose**

**3.1.1** The purpose of this document is to present the Evaluation Teams findings to the cabinet, with a recommendation for their consideration and endorsement, of which Supplier should be offered the contract to provide management of Fylde Leisure facilities.

### **3.2 Scope**

**3.2.1** The scope of this report is to describe the evaluation process that has taken place and present the results of the process with the Evaluation Team's recommendation for the appointment of a supplier for the management of Fylde

Borough Council's leisure facilities and seek endorsement of the Cabinet's recommendation of the award of contract.

### **3.3 Background**

**3.3.1** This report has been written as a result of the procurement exercise undertaken to let the management of Fylde leisure facilities.

**3.3.2** The value of the contract was above the European threshold for services (currently £144,371), and is categorised as a "Part B2 service, which meant that the contract did not have to be advertised through the European Journal.

**3.3.5** To comply with the Council's standing orders an advert was placed in the magazine Leisure Opportunities on the 10<sup>th</sup> June 2007 for one week.

**3.3.6** It was decided at the beginning of the procurement exercise that it would be run as an open instead of a restricted procedure as there would be insufficient suppliers in this type of market to warrant a short listing exercise.

**3.3.7** The ITT documents were made available for the very first time to download from the council's website instead of sending out the 150 page document. This not only saved the council money on printing, stationery and posting out the documents, but it also saved on staff time and resource.

**3.3.8** Seven suppliers registered their interest in tendering for this contract which had to be returned by 12 noon on the 31<sup>st</sup> August 2007.

**3.3.9** During the response period five bidders declined to tender for the contract and listed below are the suppliers and the reasons why they decided not to submit a tender:-

- Serco Leisure – The supplier stated that owing to other commitments they were not in a position to put forward a bid proposal.
- Stevenage Leisure – The supplier said given the location and turnover, it would not be financially viable for them.
- SLM - The supplier felt that against other projects, this opportunity would not be big enough for them.
- DC Leisure - The supplier believed that if they were successful with this tender exercise would over extend their commitment to their existing clients.
- Wigan Leisure and Cultural Trust – The Supplier considered given the potential return on investment did not justify taking the risks associated with making the significant investment required.

**3.3.10** This left two suppliers to complete the ITT and they were:

- Parkwood Leisure
- YMCA.

**3.3.11** During the response period, Parkwood Leisure raised seven clarifications and YMCA three. These are available on request.

**3.3.12** The tenders were received on the due date and opened on the 4<sup>th</sup> September 2007.

**3.3.13** The Evaluation meeting took place on the 12<sup>th</sup> September 2007 and the panel was made up of the following:

- Paul Norris
- Brian White
- Chris Holland
- Allan Williams.

### **3.4 The Criteria**

**3.4.1** Each proposal was evaluated on the following eight Evaluation Criteria:

Management
Company Information
Technical Resources and Performance Reference
Company Safety Policy
Equal Opportunities
Customer Care
Partnership Service Delivery
Price

**3.4.2** The Evaluators scored each criteria against the bidder's answers in their proposal and subsequent clarifications using their judgment and knowledge of the requirements. Each requirement under the evaluation criteria was scored between 0 and 3 on the following basis:

Score	
0	The Evaluation Panel felt that none of the requirement was met or demonstrated or no response was provided.
1	The Evaluation panel felt that some of the areas (70 % or less) of the requirement has been met or demonstrated.
2	The Evaluation panel felt that most of the requirement (71% and above) has been met or demonstrated
3	The Evaluation Panel felt that the supplier had exceeded this requirement.

### **3.5 The Weightings**

**3.5.1** The total score for each criterion was calculated as a percentage and requirement was weighted according to its importance, as follows:

Evaluation Criteria	Weight
Management	5
Company Information	5
Technical Resources & Performance Reference	5
Company Safety Policy	10
Equal Opportunities	5



Customer Care	5
Partnership Service Delivery	5
Price	60

### 3.6 The Meetings

**3.6.1** The ET had already agreed the weightings to be distributed between the eight categories beforehand and was published in the ITT. The group originally decided on a 60/40 split in favour of quality; however finance preferred a 40/60 split in favour of price, as Brain White felt that the 60/40 would give undue scope to go for a more costly contract because a supplier will already have a set of well written policies to base their proposal on.

**3.6.7** The scores of the evaluation and why both suppliers have been marked above the fully met mark are explained in the next section.

### 3.9 Evaluation Summary

**3.9.1** Appendix A shows both suppliers raw and weighted scores, broken down by each criteria. The table also shows the total scores as a percentage out of the potential total weighted score of 300 marks.

**3.9.2** The result shows that the YMCA scored a total weighted score of 285, which as an overall percentage of a potential score of 300 is 95%; Parkwood's Leisure total weighted score was 170, which as an overall percentage is 57%

**3.9.3** Therefore the ET agreed to recommend to Fylde cabinet that, in the event of externalisation, the new contract should be awarded to the YMCA.

**3.9.4** A summary for the difference in the scores between the two suppliers is outlined in the following paragraphs.

**3.9.5** ET agreed that as Parkwood Leisure had provided very detailed information on their Management structure, qualifications and training etc, they merited the top score of 3. Whereas the YMCA lacked the detailed information the panel was after on the staffing structure (i.e. lack of clarity on personnel who would be working at the pools and their qualifications) and only scored 1. This was provided after a clarification was sent out to them, but only in sufficient detail to increase their score to a 2.

**3.9.6** Parkwood Leisure again provided very detailed Company Information, particular on the companies' objectives on sports development and scored a 3. The YMCA provided the information, but the ET found it difficult to find particular in the areas of employee turnover and wage structure for the contract and they scored a 2.

**3.9.7** The ET had agreed that Technical Resources was the most important of the quality criteria and carried a weighting of 10. Both Suppliers received a top score of 3 for this, as they showed strong evidence of providing similar service to other public bodies and received excellent references. Both suppliers' proposals contained details of how they would improve the service over the length of the

contract. Although the YMCA was not clear how some of these improvements would be funded, and a clarification has been sent requesting this information. However, the ET agreed that this issue should not prevent YMCA from receiving the top score for this category.

- 3.9.8** Parkwood supplied clear and concise policies on equality and diversity and the monitoring mechanisms in place and were awarded with a 3. The YMCA provided information, but was not as detailed, however, it was sufficient for a score of 2.
- 3.9.9** Both suppliers were strong in area of Customer Care and both responses were very clear on their policies on customer care, staff training and obtaining feedback from customers such as questionnaires and surveys on the service they provided. The ET had no hesitation in awarding both suppliers with an exceeded marking.
- 3.9.10** The ET were disappointed with Parkwood Leisure's response to the delivery of service in partnership particularly in how they would develop Kirkham baths and implement the leisure card facility. YMCA provided detailed information on how they would work with the Council to develop both sites and improve the existing service subject to clarification of the funding issue. However, as already stated in paragraph 3.9.7 this would not prevent them being given a top mark on the evidence provided.
- 3.9.11** From the Financial analysis it was clear that YMCA provided the cheapest option with a bid of £12,128 below the Council's budget of £478,028 and so received the top score of 3. However, Parkwood Leisure bid was £98K over the Council's budget and thus received a mark of 1. As a result of Price carrying a weighting of 60 because the cost of running and managing both Kirham and St Annes pools was a major factor for the council deciding to look at outsourcing this service. This explains the big difference in the overall scores of both suppliers.

**APPENDIX A**  
**Tender Evaluation scores for both Suppliers**

Company		Parkwood Leisure		YMCA	
Criteria	Weight	Raw Score	Weighted Score	Raw Score	Weighted Score
Management	5	3	15	2	10
Company Information	5	3	15	2	10
Technical Resources & Performance Reference	5	3	15	3	15
Company Safety Policy	10	3	30	3	30
Equal Opportunities	5	3	15	2	10
Customer Care	5	3	15	3	15
Partnership Service Delivery	5	3	5	3	15
<b>Totals</b>	<b>40</b>	<b>19</b>	<b>110</b>	<b>19</b>	<b>105</b>
Price	60	1	60	3	180
<b>Grand Totals</b>	<b>100</b>	<b>20</b>	<b>170</b>	<b>19</b>	<b>285</b>
<b>Totals as a % of potential score 300</b>			<b>57%</b>		<b>95%</b>

## Swimming Pools Tender

	<b>Fylde Budget</b>	<b>YMCA</b>	<b>Parkwood</b>
<b><u>St Annes Pool</u></b>			
<b>Expenditure</b>	<b>551,880</b>	<b>547,700</b>	<b>560,677</b>
<b>Income</b>	<b>217,860</b>	<b>220,100</b>	<b>193,967</b>
<b>Net Cost</b>	<b>333,720</b>	<b>327,600</b>	<b>366,710</b>
<b><u>Kirkham Pool</u></b>			
<b>Expenditure</b>	<b>291,830</b>	<b>292,900</b>	<b>369,222</b>
<b>Income</b>	<b>147,522</b>	<b>154,600</b>	<b>160,237</b>
<b>Net Cost</b>	<b>144,308</b>	<b>138,300</b>	<b>208,985</b>
<b><u>St Annes &amp; Kirkham</u></b>			
<b>Expenditure</b>	<b>843,410</b>	<b>840,600</b>	<b>929,899</b>
<b>Income</b>	<b>365,382</b>	<b>374,700</b>	<b>354,204</b>
<b>Total Net Cost</b>	<b>478,028</b>	<b>465,900</b>	<b>575,695</b>

**Options Appraisal Document**  
**Indoor Leisure Service**

**This appraisal paper identifies the various options for the management and delivery of Fylde's indoor leisure service based on the information accumulated through recent market testing.**

**Option 1 – Management of service contracted out to YMCA**

Pros

Integrated service between Fylde/Wyre  
Probability of a better quality service  
'Off the shelf' leisure pass  
Good links to YMCA dry leisure provision  
Stability/job security (15 year contract)  
Possible savings to central establishment costs  
Improved marketing  
Economies of scale  
Known costs to council  
Possible improved sickness absence performance  
Reduced HR support required  
Reduced costs of payroll support

Cons

Loss of direct management control  
Contractual commitment to 15 years building maintenance  
Funding needed for full 15 year period (no chance to make further budget cuts)  
Risk of compensation to contractor for loss of income due to unforeseen pool closures.  
Local pressure to continue with external local service provider if financial targets have not been met

**Option 2 – Retain management of service in house**

Pros

Council maintains control  
Flexibility of maintenance programme

Cons

Service at risk every year due to budget pressures  
Reduced security ( staff morale)  
Limited opportunity for service development

**Option 3 – Alternative Service Delivery ( Kirkham Baths closure)**

Note - This can be actioned with either Option 1 or 2

Pros

Revenue budget savings  
Investment in rural swimming through direct subsidy  
Reduced impact of lifeguard shortage  
Increased service provision at remaining pool  
Capital receipt for land

Cons

Schools have to use other venues  
Local opposition  
Loss of facility  
Redeployment issues

**Option 4 – Investment in fitness suites at both pools/new pool at Kirkham**

Note – this can be actioned independently of the other options

## **Fitness Suites**

### Pros

Increased facility offer – income implications  
Better use of building  
Opportunity to develop all round fitness programme

### Cons

Investment costs of £ 308k at Kirkham funded by FBC (£XXX per year revenue costs)  
Investment costs of £ 530k at St Annes funded by FBC (£40k per year revenue costs)  
No guarantees of increased business/payback

## **New Pool**

### Pros

Purpose-built facility  
Reduced operating costs  
Capital receipt for land

### Cons

Investment costs of £4.234m funded by FBC (£338,000 per year revenue costs)

## St. Annes Swimming pool survey

<b>Regular ongoing Maintenance</b>	<b>Cost</b>
Service/upgrade to all heating system yearly 15 x 700	£10,500
Service/upgrade to all pool services/filters/ducting 15 x 1000	£15,000
Internal/external redecoration every 5 years £15000 x 3	£45,000
Day to Day maintenance cost's 2K per year x 15	£30,000
<b>Total</b>	<b>£100,500</b>
<b>Year 1</b>	<b>Cost</b>
Fix fall arrest systems to all roof areas	£25,000
<b>Total</b>	<b>£25,000</b>
<b>Year 2</b>	<b>Cost</b>
Replace all fascia	£8,000
Replace all window frames including d/glazed units	£35,000
Refurbish bar/café area	£5,000
Replace units to staff room	£2,000
Replace unit to laundry room	£2,500
Replace metal handrails/walkway to pool area	£6,500
<b>Total</b>	<b>£59,000</b>
<b>Year 3</b>	<b>Cost</b>
Upgrade to roller shutter doors	£3,000
Replace all steel vent to plantroom	£8,000
Replace all signage	£2,000
Replace all timber external doors/frames	£7,200
<b>Total</b>	<b>£20,200</b>
<b>Year 4</b>	<b>Cost</b>
Refurbish spectator/invalid area	£10,000
<b>Total</b>	<b>£10,000</b>
<b>Year 5</b>	<b>Cost</b>
Service/upgrade to distribution systems	£8,000
All roof areas to be upgraded/flashings	£120,000
Replace all roof lights/domes	£45,000
Paint all steelwork to plantroom	£5,000
Replace all carpets including all staircase nosings	£10,000
Replace all suspended ceilings throughout	£30,000
Upgrade all cubicles ladies/gents	£20,000
<b>Total</b>	<b>£238,000</b>
<b>Year 10</b>	<b>Cost</b>
Replacement upgrade to lighting/power (internal)	£80,000
Replacement upgrade to external lighting	£3,000
Replacement upgrade to alarms/CCTV Equipment	£14,000
Repoint all brickwork/rebed all copings	£60,000
<b>Total</b>	<b>£157,000</b>
<b>Year 15</b>	<b>Cost</b>
Plant Room Filters/Boilers Replacement	£200,000
<b>Total</b>	<b>£200,000</b>
<b>Total Costs (Ongoing Maintenance)</b>	<b>£809,700</b>

## Kirkham Swimming pool survey

### Regular ongoing Maintenance

Day to day maintenance cost 1500.00 per annum x 15	£22,500
Electrical report every 5 years 555.00 x 3	£1,665
Paint all internal and underside of pool area 4500 x 3	£13,500
<b>Total</b>	<b>£37,665</b>

### Year 1

Replace T/G boarding to fascias	£5,000
Replace 7 no. window frames	£3,500
Resurface all ramp to disabled entry/Entrance footway	£3,500
Replace/upgrade of safety alarms/cctv equipment	£6,000
Break out/make good to all areas spalding to underside of pool	£2,500
Access to main roof area over pool not safe, form safe areas	£5,000
Fix Fall Arrest Systems to all roof areas	£10,000
Replace CWSC in tank	£1,500
<b>Total</b>	<b>£37,000</b>

### Year 2

Service/upgrade distribution system	£5,000
Replace/upgrade of lighting/power installations internal/external	£35,000
Reroute/manhole to disabled toilet	£5,000
Replace all taps/shower heads/pipework	£15,000
Replace all insulation/lagging	£5,000
Replace all damaged tiles	£2,500
Replace all carpets/flooring	£2,500
<b>Total</b>	<b>£70,000</b>

### Year 3

Painting to all external areas x3	£9,000
Upgrade watermain	£5,000
<b>Total</b>	<b>£14,000</b>

### Year 4

Strip off, refelt/ Reseal all asphalt roof areas	£25,000
Replace all flashings	£10,000
<b>Total</b>	<b>£35,000</b>

### Year 5

Upgrade dome roof lights	£35,000
Repoint to all elevations/ Rebed copings/Repoint all verges	£35,000
Replace all steps/handrails to main pool	£10,000
Replace gas boilers (5 No.)	£60,000
<b>Total</b>	<b>£140,000</b>

### Year 10

Replace air handling unit	£25,000
Replace all Lockers/Cubicles	£75,000
Replace all suspended ceilings throughout	£45,000
Re-grout all tiled areas	£45,000
Retile all pool main pool area	£175,000
<b>Total</b>	<b>£365,000</b>

<b>Total Costs (Ongoing Maintenance)</b>	<b>£698,665</b>
--	-----------------



<b>YEAR</b>	<b>DESCRIPTIONS</b>	<b>COSTS</b>
4	Strip off, refelt/ Reseal all asphalt roof areas	25,000
5	Upgrade dome roof lights	35,000
4	Replace all flashings	10000
5	Repoint to all elevations/ Rebed copings/Repoint all verges	35000
1	Replace T/G boarding fascias	5000
3	Painting to all external areas 3000 x 3	9000
1	Replace 7 no. window frames	3500
1	Resurface all ramp disabled entry/Entrance footway	3500
1	Electrical report every 5 years 555.00 x 3	1500
	Day to day maintenance cost 1500.00 per annum x 15	22500
2	Service/upgrade distribution system	5000
2	Replace/upgrade lighting/power installations internal/external	35000
1	Replace/upgrade of safety alarms/cctv equipment	6000
	Replace gas boilers 5 no.	60000
10	Replace air handling unit	25000
5	Paint all internal underside of pool area 4500 x 3	13500
2	Reroute/manhole disabled toilet	5000

- 1 Break out/make good to all 2500 areas spalding to underside of pool
- 3 Upgrade watermain 5000
- 2 Replace all taps/shower heads/pipework 15000
- 10 Replace all 75000 Lockers/Cubicles
- Replace CWSC in tank 1500 room
- 10 Replace all suspended ceilings throughout 45000
- 2 Replace all 5000 insulation/lagging
- 10 Re-grout all tiled areas 45000
- 2 Replace all damaged tiles 2500
- 10 Retile all pool main pool area 175000
- 5 Replace all steps/handrails to main pool 10000
- 2 Replace all carpets/flooring 2500
- 1 Access to main roof area 5000 over pool not safe, form safe areas
- 1 Fix Fall Arrest Systems to all roof areas 10000

<b>YEAR</b>	<b>DESCRIPTION</b>	<b>COSTS</b>
5	Service/upgrade distribution systems	to 8,000.00
10	Replacement upgrade lighting/power (internal)	to 80,000.00
10	Replacement upgrade external lighting	to 3,000.00
10	Replacement upgrade alarms/CCTV Equipment	to 14,000.00
Y	Service/upgrade heating system yearly 15 x 700	to all 10,500.00
Y.	Service/upgrade services/filters/ducting 15 x 1000	to all pool 15,000.00
5	Internal/external redecoration every 5 years £15000 x 3	45,000.00

- 5 All roof areas to be upgraded/flashings 120,000.00
- 3 Upgrade to roller shutter doors 3,000.00
- 5 Replace all roof lights/domes 45,000.00
- 5 Paint all steelwork to plantroom 5,000.00
- 3 Replace all steel vent to plantroom 8,000.00
- 2 Replace all fascia 8,000.00
- 2 Replace all window frames including glazed units 35,000.00
- 3 Replace all signage 2,000.00
- 3 Replace all timber external doors/frames 7,200.00
- 10 Repoint all brickwork/rebed all copings 60,000.00
- 5 Replace all carpets including all staircase nosings 10,000.00
- 2 Refurbish bar/café area 5,000.00

- 5            Replace all suspended 30,000.00  
             ceilings throughout
  
- 5            Upgrade all cubicles 20,000.00  
             ladies/gents
  
- 2            Replace units to staff room 2,000.00
  
- 2            Replace unit to laundry 2,500.00  
             room
- 4            Refurbish spectator/invalid 10,000.00  
             area
  
- 2            Replace metal 6,500.00  
             handrails/walkway to pool
- Y            Day to Day maintenance 30,000.00  
             cost's 2K per year x 15
  
  
- 15           Plan Room Filters/Boilers 200,000.00  
             Replacement
  
  
- 1            Fix fall arrest systems to all 25,000.00  
             roof areas

## Special Policy & Service Review Scrutiny Committee



Date	23 August 2007
Venue	Reception Room, Town Hall, St Annes
Committee members	Fabian Wilson (Chairman) John Prestwich (Vice-Chairman)  Cheryl Little, Maxine Chew (substitute) Elizabeth Oades, Bill Thompson.
Other Councillors	Lyndsey Greening and Christine Ackeroyd
Officers	Paul Walker and Tracy Scholes.
Others	None

### 1. Declarations of interest

Members were reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.

Councillor Bill Thompson declared a personal interest in the item regarding Melton Grove as he was a Director of the Board.

### 2. Substitute members

Councillor Maxine Chew substituted for Peter Collins.

### 3. Exclusion of the public

After due consideration it was RESOLVED to exclude the public from the meeting for consideration of item 4 in accordance with the provisions of Section 100A (4) of the Local Government Act 1972.

### 4. Review of Council Assets

The Committee deliberated over the work of a Task and Finish Group which had been established by the Committee. Their work had been to review council assets to ensure that they were delivering the aims and priorities of the

council. Each asset put before the committee had been reviewed and considered for one of the following approaches:-

- An asset that could be or should be disposed of to achieve income
- An asset that could potentially raise increased revenue
- An asset that could or should be disposed of to others to continue to provide the council objectives
- An asset that should be retained and if necessary improved/adapted

After debate the committee resolved to make the following recommendations to the Cabinet:

COUNCIL ASSET	RECOMMENDATION TO CABINET	COMMENTS (IF ANY)
Scruples site, Lytham Green	To advertise the site for a suitable short term moveable concession	
Clifton Lytham Housing Association (Melton Grove)	That if the Directors of Clifton Lytham Housing choose not to dispose of the Association to a registered social landlord that the Council no longer supports the administrative costs to the Association	
Ground rents	That the tenants be offered the opportunity to enfranchise and the remainder of ground rents be disposed of on block	
Woodlands Caravan Park	That the property be retained by the council as an investment property	
Moreland Avenue Allotments and Garages, Wesham	That Wesham Town Council is contacted to ascertain if it has any interest in leasing the whole of the allotment site. If there is no interest the allotment site together with the garage site should be disposed of to a registered social landlord in order to provide affordable housing.	If the Town Council was interested in acquiring the allotment site the garage site should be disposed of for affordable housing only.
St Paul's Avenue Car Park	To identify resources in the 2008/09 Corporate Plan to	

	produce a regeneration plan for Fairhaven Lake, a part of which would be considering the future use of the St. Paul's Avenue Car Park.	
Land at School Lane, Kirkham	To improve maintenance and usage of the existing open space with the remainder of the site retained for now for possible future use as affordable housing	
Waddington Playing Field St Annes	To improve the environmental and recreational potential of the site	
Pier Hole, Lytham Marsh	To meet with Natural England, the RSPB and the Environment Agency to discuss implications for the site and the views on disposal for wildfowling	
Park View changing rooms	To enter into a dialogue with Park View 4U over the potential transfer of the building to allow it to be developed for community use as an Eco centre or similar at no cost to the council	
Site on the Beach at St Annes	To include the site within the emerging regeneration proposals for the Promenade and consider as part of this including consultation with the St. Annes Land and Building Company	
Solarium and garden, North Promenade, St Annes	To include the site within the emerging regeneration proposals for the Promenade and consider as part of this including consultation with the St. Annes Land and Building Company	
Land at Wrea Crescent, Wrea Green	To offer the land to Ribby With Wrea Parish Council as a short term arrangement with the Council reserving its right to review its position with respect to future affordable housing needs identified across the Borough in accordance with the Fordham report	



Ashton Gardens former glasshouses/nursery site	To develop for educational use which is complimentary to the restored gardens and as a possible site for low impact depot garages following the sale and development of the St. Annes civic sites	
Dickie Bush, Ansdell	To retain the site as it is but seek any interest from residents in setting up a local friends group	
Blackpool Road Playing Fields	To develop a dialogue with the developer/airport/ Lytham Town Trust to establish the basis of a scheme to consider whether it is or is not in the interests of the council to proceed	Councillor John Prestwich requested that his name be recorded as having voted against this recommendation
Former CAB building, Kirkham	To investigate the level of interest from the neighbouring occupier as a special purchaser with a view to maximising the value of the site	
Jetty area at Helical Springs, Lytham	To renegotiate the lease with Helical Springs at maximum rental based on comparable income realised by Wyre Borough Council for similar moorings in its administrative area	
Former tip Graving Dock Road, Lytham	To enter into dialogue with adjoining land owners to establish the basis of different forms of development to consider if it would be in the interests of the council to dispose	
Former conveniences, Ansdell Road, Ansdell	To offer the site for sale	
Town Hall Site, St Annes	To market the upper floors of the building for disposal	Councillors Bill Thompson, Maxine Chew and Liz Oades requested that their names be recorded as having voted against this recommendation
Public Offices site, St Annes	To market the site for disposal	Councillors Bill Thompson, Maxine Chew and Liz Oades requested that their names be recorded as having voted against this recommendation

Former Central Vehicle Maintenance Unit depot on St David's Road	To market the site for disposal	Councillors Bill Thompson, Maxine Chew and Liz Oades requested that their names be recorded as having voted against this recommendation
Former Adult Training depot	To market the site for disposal	Councillors Bill Thompson, Maxine Chew and Liz Oades requested that their names be recorded as having voted against this recommendation
Council Offices, Derby Road, Wesham	To market the site for disposal	<p>Councillors Bill Thompson, Maxine Chew and Liz Oades requested that their names be recorded as having voted against this recommendation</p> <p>It was also commented that the Wesham Offices should be considered for a decampment option for the temporary relocation of council employees whilst the Town Hall was being re-developed</p>
North Beach Car Park	To market the site for disposal	Councillors Bill Thompson, Maxine Chew and Liz Oades requested that their names be recorded as having voted against this recommendation

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