



FYLDE BOROUGH COUNCIL



## Meeting Agenda

Licensing Panel  
Reception Room, Town Hall  
24 October 2007, 10:00am



## Licensing Objectives

Fylde Borough Council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives.

The licensing objectives are:

- 1. The prevention of crime and disorder;**
- 2. Public safety;**
- 3. The prevention of public nuisance; and**
- 4. The protection of children from harm.**

In carrying out its licensing functions, Fylde Borough Council must also have regard to:

- 1. Our licensing statement published under section 5 of the Licensing Act, and**
- 2. Any guidance issued by the Secretary of State under section 182 of the Licensing Act**

# Membership Licensing Committee

CHAIRMAN - Councillor David Eaves

VICE-CHAIRMAN – Councillor Dawn Prestwich

## Councillors

Brenda Ackers	Christine Akeroyd
Elizabeth Clarkson	Barbara Douglas
Susan Fazackerley	Angela Jacques
Keith Beckett	Lyndsay Greening
Elaine Silverwood	Ken Hopwood
Tony Ford	John Davis
Janine Owen	

Contact: Peter Welsh, St. Annes (01253) 658502, Email: [peterw@fylde.gov.uk](mailto:peterw@fylde.gov.uk)



## AGENDA

### PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
<p><b>1. DECLARATIONS OF INTEREST:</b> <i>If a member requires advice on Declarations of Interest he/she is advised to contact the Legal Services Executive Manager in advance of the meeting. (For the assistance of Members an extract from the pocket guide produced by the Standards Board for England is attached).</i></p>	4
<p><b>2. CONFIRMATION OF MINUTES:</b> <i>To confirm as a correct record the Minutes of the Licensing Committee held on 27 April 2007</i></p>	4
<p><b>3. SUBSTITUTE MEMBERS:</b> <i>Details of any substitute members notified in accordance with council procedure rule 25.3</i></p>	4
<p><b>4. LICENSING ACT 2003 - REVISED LICENSING POLICY 2008 - 2011</b></p>	5 – 47

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING AND PROTECTION	LICENSING COMMITTEE	24 OCTOBER 2007	4

## 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.

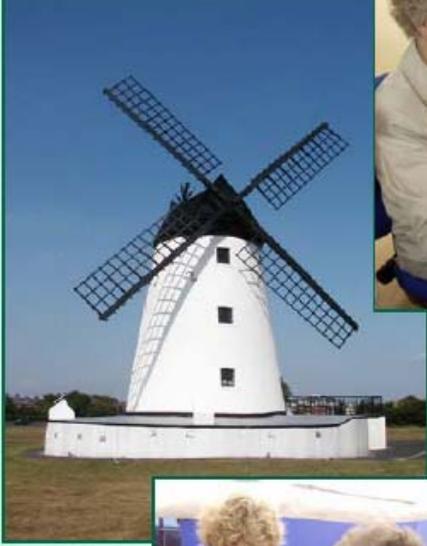
<b>IMPLICATIONS</b>	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

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. Feedback from Consultation (To Follow)



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.

<b>CONTENTS</b>		<b>Page</b>
1.	Authority Profile	1
2.	Licensing Authority	1
3.	Licensing Objectives	2
4.	Purpose & Extent of Policy	2
5.	Exclusions from the Policy	3
6.	Statutory Guidance	3
7.	Scope of Policy	3
8.	Fundamental Rights	4
9.	Links to Other Policies & Strategies	4
9.1	Race Equality	4
9.2	Disability Discrimination	4
9.3	Human Rights Act 1998	4
9.4	Crime and Disorder	5
9.5	National Alcohol Harm Reduction Strategy	5
10.	Live Music, Dancing and Theatre	5
11.	Avoidance of Duplication	5
11.1	Planning	6
11.2	Building Control	6
12.	General Approach to Licensing	6
13.	Applications for Premises Licences and Club Premises Certificates	7
14.	Applications Made by the Local authority	8
15.	Variations	9
16.	Operating Schedules	9
17.	Licence Conditions	10
18.	The Licensing objectives	10
19.	Prevention of Crime and Disorder	11
19.2	Duplication of Legal Requirements	11
19.3	Underage Drinking	11
19.4	Drunkenness on Premises	11
19.5	Pub Watch Schemes	12
19.6	Drugs	12
19.7	Crime, Disorder & Nuisance around Licensed Premises	12
19.8	Door Supervisors	12
19.9	CCTV	13
19.10	Glasses & Bottles	13
19.11	Open Containers	13
19.12	Drinks' Promotions	13
19.13	Responsible Promotion of Alcoholic Drinks	13
19.14	Take aways & Alcohol	14
19.15	Police Closure Notices	14
20.	Promotion of Public Safety	14
20.2	Fire Safety	14
20.3	Capacity Numbers	14
20.4	Health & Safety	14

<b>21.</b>	Prevention of Nuisance	15
<b>21.3</b>	Duplication of other Statutory Controls	15
<b>21.4</b>	Disturbance by Patrons leaving the Premises	15
<b>21.5</b>	Noise Nuisance	16
<b>21.6</b>	Noise Monitoring	16
<b>21.7</b>	Litter	16
<b>21.8</b>	Light Pollution	16
<b>22.</b>	Protection of Children from Harm	16
<b>22.4</b>	Sale and Supply of Alcohol to Children	17
<b>22.5</b>	Proof of Age Schemes	17
<b>22.6</b>	Adult Entertainments	17
<b>22.7</b>	Children & Entertainment	18
<b>23.</b>	Licensing Hours	18
<b>24.</b>	Representations (Objections)	19
<b>25.</b>	Vicinity	20
<b>26.</b>	Disclosure	20
<b>27.</b>	Hearings	21
<b>28.</b>	Determination of Applications	22
<b>29.</b>	Need for Licensed Premises	22
<b>30.</b>	Cumulative Impact of Concentration of Licensed Premises	23
<b>31.</b>	Other Controls on Anti Social Behaviour	24
<b>32.</b>	Review of Licences	24
<b>33.</b>	Provisional Statements	25
<b>34.</b>	Temporary Event Notices	26
<b>35.</b>	Personal Licences	27
<b>36.</b>	Designated Premises Supervisor (DPS)	28
<b>37.</b>	Authorisation for the Sale of Alcohol	28
<b>38.</b>	Complaints About Premises	28
<b>39.</b>	Enforcement	29
<b>40.</b>	Delegation	29
<b>41.</b>	Appeals	30
<b>42.</b>	Complaints About Our Service	30
<b>43.</b>	Commencement & Review	30
		30
<b>Appendices</b>		
<b>1</b>	Contact Details – Responsible authority	31
<b>2</b>	Scheme of Delegations	32
<b>3</b>	Consultation	33
<b>4</b>	Glossary of Terms	34

*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 Licences)
  - Licensing of premises for the retail sale of alcohol (Premises Licences)
  - The provision of regulated entertainment (Premises Licences)
  - The provision of late night refreshment (Premises Licences)
  - 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 recognise 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 their 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 of 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 reasons 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. AUTHORISATION 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:

<b>Matter to be dealt with</b>	<b>Full Committee/ Sub Committee</b>	<b>Officer Delegation</b>
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 retails 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.

## Licensing Committee



Date	27 April 2007
Venue	Lowther Pavilion, Lytham
Committee members	Dawn Prestwich (Chairman) Christine Akeroyd (Vice-Chairman) Elizabeth Clarkson, Karen Henshaw JP, Janine Owen
Other Councillors	None
Officers	Chris Hambly, Stuart Handley, Lyndsey Lacey

### 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.

### 2. Confirmation of minutes

To approve the minutes of the Licensing Committee meeting held on 2 March 2007 as a correct record for signature by the chairman.

### 3. Substitute members

None

### 4. Gambling Premises Licensing Fees

Stuart Handley (Commercial and Licensing Manager) presented a comprehensive report on gambling premises license fees.

Mr. Handley explained that the Department of Culture, Media and Sport had

determined that as from the 21st May 2007, all local authorities would be required to accept advanced applications for premises licences for the purposes of gambling, and would be entitled to levy fees in order to recover the costs for administration, inspection and enforcement.

The report outlined the transitional arrangements. The report also provided a breakdown of cost recoverable fees chargeable by the authority and included a table comparing the maximum fees under the regulations and recoverable fees chargeable.

Following discussion it was RESOLVED:

1. To approve the fees chargeable (as set out in the report) which are based upon the cost recovery for the issuing of gambling premises licenses.
2. To agree to the committee undertaking a review of the fees in 12 months time.

-----

**© Fylde Borough Council copyright [2006]**

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context. The material must be acknowledged as Fylde Borough Council copyright and you must give the title of the source document/publication. Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at [www.fylde.gov.uk](http://www.fylde.gov.uk)

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to [listening@fylde.gov.uk](mailto:listening@fylde.gov.uk).