



**Committee:** LICENSING SUB-COMMITTEE  
**Date:** THURSDAY, 21 MAY 2020  
**Venue:** VIRTUAL MEETING VIA TEAMS LIVE  
**Time:** 11.00 A.M.

**A G E N D A**

1. **LICENSING ACT 2003 PREMISE LICENCE GRANT- MICROPUB, 312 LANCASTER ROAD, TORRISHOLME, MORECAMBE, LA4 6LY (Pages 2 - 60)**

DETERMINATION OF APPLICATION FOLLOWING RELEVANT REPRESENTATIONS

**ADMINISTRATIVE ARRANGEMENTS**

**(i) Membership**

Councillors Colin Hartley (Chair), Kevin Frea and Mel Guilding

**(ii) Queries regarding this Agenda**

Please contact Liz Bateson, Democratic Services - telephone (01524) 582047 or email [ebateson@lancaster.gov.uk](mailto:ebateson@lancaster.gov.uk).

KIERAN KEANE,  
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TOWN HALL,  
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Published on 6 May, 2020.

**LICENSING ACT SUB COMMITTEE**

**LICENSING ACT 2003  
PREMISE LICENCE GRANT- MICROPUB, 312 LANCASTER  
ROAD, TORRISHOLME, MORECAMBE, LA4 6LY**

**DETERMINATION OF APPLICATION FOLLOWING  
RELEVANT REPRESENTATIONS**

**21 May 2020**

**Report of Licensing Enforcement Officer**

**PURPOSE OF REPORT**

To enable members to determine an application for a Premise Licence under Section 17 of the Licensing Act 2003 submitted by Roy & Lucie Peters, 39 Needham Avenue, Morecambe, LA4 4PQ, following the receipt of a relevant representation.

**The report is public**

**RECOMMENDATIONS**

The Sub Committee is requested to determine in the light of the representations made and having regard to the Council's Statement of Licensing Policy, The Licensing Act 2003 and any Regulations made under that Act as well as Government Guidance whether to grant the application as requested, modify any conditions of the licence, or to reject the whole application. Members are reminded that they should state the reasons for their decision.

**1.0 Introduction**

1.1 The Council grants permissions for Premise Licences submitted under the Licensing Act 2003 (the Act). Mr & Mrs Roy & Lucie Peters have submitted an application under Section 17 of the Licensing Act 2003 for a premises licence in respect of The Micro-pub, 312 Lancaster Road, Torrisholme, Morecambe, LA4 6LY.

The application is for a licence to facilitate the following:-

The sale & supply of alcohol for consumption both on & off the premises:-

Monday – Sunday 10:00 hours until 22:00 hours inclusive

For Members information, the applicants also wish to show films at the premises during trading hours, however this licensable activity is now deemed exempt in an alcohol licensed premises between these hours.

Details of the application for the premises licence are set out in the application form including the plan, which is detailed as Appendix No.1 to this report.

- 1.2 There is a statutory requirement to advertise such applications for a period of 28 days in which time representations in favour or against the application can be submitted. Any representation submitted must relate to the likely impact of the grant of the licence on one or more of the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

- 1.3 During the 28 day consultation period the Council received one relevant representation from Other Persons as defined by The Act. This relates to the Public Nuisance and Public Safety licensing objectives.

Details of the representation is attached at Appendix No.2.to this report. The applicant has provided a written response to the representation and this is attached at Appendix No 4

- 1.4 The concerns of The Other Persons relate predominantly to public nuisance where it is perceived that should Members seek to grant this licence then there would be strong likelihood of an increase to noise nuisance in respect their neighbouring premises. Of particular concern to them is that the applicant wishes to have tables & chairs outside, within the curtilage to the front of the premises, which the Other Persons believe will lead to patrons drinking and smoking within very close proximity to their own premises with an inevitable impact of noise from patrons enjoying themselves.

Detailed in the representation and to a lesser extent there are also concerns from the Other Persons that there will be an increase in vehicle movements and footfall within the area which is in effect a narrow road through the centre of Torrisholme thereby exacerbating overall public safety.

- 1.5 Any representations must relate to the likely impact of the grant of the licence in relation to all four of the licensing objectives, namely:

- Public Safety
- The prevention of crime and disorder
- Public Nuisance
- The protection of children from harm

- 1.6 Under Section 18(3) of the Act, it is necessary for a hearing to be held to consider the application, as representations have been received from Responsible Authorities. The relevant section prescribes:

Where relevant representations are made, the authority must-

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

The steps are-

- (a) to grant the licence subject to –
  - (i) the conditions mentioned in subsection 2 (a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives and
  - (ii) any condition which must under section 19,20 or 21 be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor
- (d) to reject the application
- (e) to reduce the hours of licensable activity

1.7 The Council's Statement of Licensing Policy is attached at Appendix No.3 to this report. The following sections are relevant to this application:-

- Section 3: refers the duty to protect residential properties and having wider considerations to the application.
- Section 4: refers to the representations by Other persons.
- Section 9: refers to Operating Schedule and Conditions.
- Section 11: refers to Opening Hours.
- Section 12: refers to Protection of Children
- Section 13: refers to Public Nuisance (noise).
- Section 14: refers to Prevention of Crime and Disorder.
- Section 15: refers to Public Safety.

1.8 In accordance with the relevant Regulations, the parties have been given notice of the hearing. The parties have been required in accordance with the Regulations to indicate at least five working days before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further documentation submitted by any of the parties after the circulation of this agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all the parties.

1.9 Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications. In particular, in accordance with Article 6, all parties are entitled to a fair hearing. Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with

the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

- 1.10 This report has been drafted in accordance with previous custom, practice and legal requirements. It is acknowledged that having regard to current restrictions in place the format of the Licensing Sub Committee hearing may be different to that previously undertaken. All parties will be kept informed of any changes to procedure.

## 2.0 Conclusion

- 2.1 Members should consider, having regard to the Councils Statement of Licensing Policy, The Licensing Act 2003 and any Regulations made under that Act, Government Guidance and representations made, whether to grant the application as requested, modify any conditions of the licence, or to reject the whole application. Members are reminded that they should state the reasons for their decision.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>	
None.	
<b>FINANCIAL IMPLICATIONS</b>	
Financial Services have not been consulted as there are no financial implications.	
<b>LEGAL IMPLICATIONS</b>	
Legal implications are contained within the report, In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the magistrates court within 21 days.	
<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> David Eglin <b>Telephone:</b> 01524 582387 <b>E-mail:</b> <a href="mailto:deglin@lancaster.gov.uk">deglin@lancaster.gov.uk</a> <b>Ref:</b> DWE
None	

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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**LANCASTER CITY COUNCIL  
LICENSING ACT 2003**

**STATEMENT OF  
LICENSING POLICY**

**FOR THE PERIOD 2016 – 2021**

Licensing Manager  
Lancaster City Council  
Morecambe Town Hall  
Marine Road  
Morecambe LA4 5AF

Tel 01524 582033  
Email: [licensing@lancaster.gov.uk](mailto:licensing@lancaster.gov.uk)

Further copies may be obtained from the above address or from the Council's website:-  
[www.lancaster.gov.uk](http://www.lancaster.gov.uk)

**CITY OF LANCASTER**  
**STATEMENT OF LICENSING POLICY**  
**LICENSING ACT 2003**

**1 Introduction**

- 1.1 This document sets out the revised Licensing Policy of the Lancaster City Council, which is the Licensing Authority, under the Licensing Act 2003 (“the Act”).
- 1.2 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs, and at temporary events within the terms of the Act. Conditions attached to various authorisations will focus on matters which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises.
- 1.3 This statement of licensing policy is a requirement of Section 5 of the Act and has been prepared in accordance with the provisions of the Act and the Guidance issued by Secretary of State for Culture Media and Sport under Section 182 of the Act (currently dated October 2014). The Licensing Authority is, therefore, bound by the Act, any regulations made under it and the Section 182 guidance.
- 1.4 For the purpose of reviewing its Licensing Policy, in accordance with the requirements the Act, the Licensing Authority has consulted with:
- The Police
  - The Fire Authority
  - Representatives of existing holders of premises licences and personal licences
  - Representatives of existing holders of club premises certificates
  - Local businesses and their representatives
  - Local residents and their representatives
- 1.5 The Licensing Authority is grateful for the responses received, and has given proper weight to the views expressed by those consultees.
- 1.6 The Licensing Authority will consider all applications under the Act in accordance with the Act, Government Guidance, and in the light of this policy. It will expect applicants to comply with the procedural requirements of the Act and Regulations there under, and would encourage applicants to make themselves aware of the contents of this Policy, and to discuss their applications in advance with the Licensing Authority’s administrative staff, and with relevant responsible authorities (see below) and interested parties.
- 1.7 The policy covers new applications, transfers, variations of licences and certificates and provisional statements. It also includes the review of licences and certificates.

**Scope of the Licensing Act 2003**

2.1 Subject to exemptions set out in the Act, the Act and this Policy apply to applications for:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' – to the public, to club members or with a view to profit

2.2 Subject to the conditions, definitions and the exemptions referred to in Schedule 1 of the Act, the types of entertainment regulated by the Act (as amended by the Live Music Act 2012 ("the 2012 Act") and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013) ("the 2013 Order") are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports");
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- The supply of hot food and/or drink from any premises between 11.00 p.m. and 5.00 am

2.3 To be licensable, one or more of these activities needs to be provided (at least partly) to entertain an audience; has to be held on premises made available (again, at least in part) for the purpose of enabling that activity; and must also take place either:

- in the presence of a public audience, or
- in private, where a charge is made with a view to profit.

2.4 The amendments made to the Act by the 2012 Act and the 2013 Order do not prevent more than one activity (or for a single activity, more than one performance or event) being held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, in separate rooms or on separate floors. However, any person involved in organising or holding these activities must ensure that audiences do not grow or migrate so that the audience exceeds the relevant limit for any one performance or event at any time. If uncertain, it might be easier and more flexible to secure an appropriate authorisation.

## **2.5 Circumstances under which activities will not be licensable.**

This Policy cannot give examples of every eventuality or possible entertainment activity. However, the following activities are examples of entertainment which are not licensable:

- education – teaching students to perform music or to dance;
- activities which involve participation as acts of worship in a religious context;
- activities that take place in places of public religious worship;
- the demonstration of a product – for example, a guitar – in a music shop;
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit (including raising money for charity);
- games played in pubs, youth clubs etc. (e.g. pool, darts, table tennis and billiards);
- stand-up comedy;
- the provision of entertainment facilities (such as dance floors, which were previously licensable under the Act before its amendment by the 2012 Act).

2.6 As a result of amendments to the Act by the 2012 Act and the 2013 Order, no licence is required for the following activities to the extent that they take place between 08:00-23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people;
- an indoor sporting event in the presence of any audience of no more than 1,000 people;
- most performances of dance in the presence of any audience of no more than 500 people; and
- live music, where the live music comprises:
  - a performance of unamplified live music;
  - a performance of live amplified music in a workplace with an audience of no more than 200 people; or
  - a performance of live music on licensed premises which takes place in the presence of an audience of no more than 500 people, provided that a number of important conditions are satisfied. (Paragraph 16)

So, for example, an indoor sporting event that takes place between 07:00 and 23:30 on a particular day is licensable in respect of activities taking place between 07:00-08:00 and 23:00-23:30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500.

## **3. The Area of the Lancaster City Council**

3.1 The Lancaster City Council covers the historic, University City of Lancaster, the coastal resort of Morecambe, and the town of Carnforth and the surrounding rural areas. The premises within the area which will require to be licensed under the legislation are many and varied, catering for diverse tastes and consumer demands.

3.2 The Licensing Authority recognises that the entertainment, hospitality and leisure industry within its area is a major contributor to the economy of the area. It attracts tourists and visitors, makes for vibrant towns and communities, and is a major employer.

3.3 However, the area has a substantial residential population, whose amenity the Licensing Authority has a duty to protect. In particular, there are many residential properties within

the town centres of Lancaster, Morecambe and Carnforth and also in the rural areas. Occupiers of commercial premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses.

- 3.4 It is appropriate to balance all these competing interests, and especially at night time.
- 3.5 In addition, the Licensing Authority will have regard to wider considerations affecting the amenity of any area. These include littering and fouling, noise and street crime, and the capacity of the infrastructure and resources to cope with the influx of visitors, particularly at night.
- 3.6 This policy sets out the general approach that the Licensing Authority will take in considering licence applications, both for new licences and for variations of existing licences. However, it is important to recognise that all applications will be considered on their individual merits. It is also important to recognise that if no relevant representations are received from responsible authorities or other persons, the application must and will be granted in the terms sought and no additional conditions imposed.
- 3.7 The purpose of the policy is to assist officers and members in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the policy seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the area with some measure of certainty.
- 3.8 The major aim of the Licensing Authority is to promote the City, Coast and Countryside within its boundary in a safe environment.

#### **4. Responsible Authorities and Other Persons**

4.1 The Act defines “responsible authorities”, for the purposes of the Act.

4.2 For the purposes of the area of the Lancaster City Council, these are:

Police – The Licensing Officer, Lancashire Constabulary, Divisional Headquarters, Thurnham Street, Lancaster LA1 1YB

Fire Authority – Fire Safety Department, Lancaster Fire Station, Cable Street, Lancaster LA1 1HH

Health and Safety at Work – Head of Health and Strategic Housing, Town Hall, Morecambe LA4 5AF

Environmental Pollution – Head of Health and Strategic Housing, Town Hall, Morecambe LA4 5AF

Regeneration and Policy – The Head of Regeneration and Policy Services, Palatine Hall, Dalton Square, Lancaster LA1 1PW

Protection of Children from Harm - Area Child Protection Committee, Quality and Review Manager, Social Services Directorate, PO Box 162 East Cliff County Offices, Preston PR1 3EA

Trading Standards – Metrology Section, 58-60 Guldhall Street, Preston, PR1 3NU

Chief Officer (Governance) – Lancaster City Council. The Town Hall, Dalton Square, Lancaster, LA1 1PJ

Director of Public Health – Lancashire County Council, Public Health Licensing, East Cliff, Park Hotel, 2<sup>nd</sup> Floor, Room 221, Preston, Lancashire, PR1 3EA

For information about the responsible authority in respect of the licensing of a vessel, applicants should seek further advice from the Licensing Authority.

- 4.3 Other persons has now replaced the concept of interested parties and this means that the vicinity test has now been removed. Effectively anyone can now make a representation relating to an application for a premise licence as long as the representation is concerned with one of the four licensing objectives.
- 4.4 S33 of the Policing and crime Act 2009 amended the definition of an interested party (Now other persons) to include a member of the relevant Licensing Authority. As such, a Councillor of Lancaster City Council may now make representations as a 'other person' This means that they could call for a review of a premise licence or continue to act in a representative capacity on behalf of ward residents for any new applications, or applications to vary.

## **5.0 Applications for Premises Licences and Club Premise Certificates.**

- 5.1 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, applicants are advised to 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
- 5.2 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 Act (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.
- 5.3 As indicated above, the Act requires licence applicants to publicise their applications. This is to enable other persons and responsible authorities to make a representation if they wish. The Licensing Authority now has a statutory duty to advertise all applications on our website, however it is the licensing authority's opinion 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.

- 5.4 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.

## 6.0 Applications made by the Local Authority

- 6.1 When one part of the Council seeks a premises licence from the Licensing Authority, the Licensing 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.

## 7.0 Variations

- 7.1 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 which may impact on one or more of the licensing objectives requires an application under section 34 of the Act.

- 7.2 The Act does, however, allow for a simplified procedure for varying a licence where the changes do not have a detrimental effect on the licensing objectives. These are:

- Changes to the name or address of anyone mentioned on the licence
- Variations to specify a new individual as the designated premises supervisor
- To disapply the mandatory condition requiring the sale of alcohol to be carried out under the authority of a personal licence holder and the need to have a designated premises supervisor in community premises.
- Minor variations which do not impact on the licensing objectives

- 7.3 Minor variations can include the following:

- Minor changes to the structure or layout of a premises
- Small adjustments to the licensing hours
- The removal of out of date irrelevant or unenforceable conditions
- Adding certain licensable activities including live music

- 7.4 Changes to the structure of the premises will not fall within the definition of a minor variation if they have an adverse impact on the licensing objectives. For example:

- If it increases the capacity for drinking on the premises;
- Affects access between the public part of the premises and the rest of the premises or the street or public way e.g. block emergency exits or routes to emergency exits;
- Impedes the effective operation of a noise reduction measure such as an acoustic lobby

7.5 The following alterations to licensing hours are excluded from the minor variation procedures:

- Extending licensing hours for the sale of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- To increase the amount of time on any day during which alcohol may be sold or supplied for consumption off or on the premises.

7.6 Application to alter the times of other licensable activities under the minor variation procedure will be considered on a case by case basis but the following will be some of the matters considered:

- The nature of the licensable activity;
- The extent of the additional hours sought and whether it will involve later opening or opening between 23.00 and 07.00;
- Proximity of the premises to residential areas;
- Any licence conditions in already place to mitigate the impact of the activity and any additional conditions volunteered by the applicant;
- Arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?
- Whether the proposed extension applies only at weekends;
- Whether there will be any new admittances during the extended period;
- The track record of the premises;
- Whether the premises is already open during the extended period for other licensable activities;
- Proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activities in large numbers. For example, people visiting a takeaway after leaving a public house

7.7 Applicants for minor variations may volunteer conditions to remove the risk of an adverse impact on the licensing objectives either as a result of their own risk assessments or after informal discussions with the responsible authorities. The Licensing Authority cannot, however, impose their own conditions during a minor variation procedure.

7.8 Where the Licensing Authority believes that a proposed minor variation will have an adverse effect on the licensing objectives the application will be refused. Any refusal of a minor variation application does not prevent an application for a full variation under section 34 of the Act being made.

## **8.0 Adult Entertainment**

8.1 Following the introduction of the Police and Crime Act 2009, schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 has been amended to incorporate Sexual Entertainment Venues and this council has adopted the legislation

8.2 Premises offering lap dancing or any live performance or display of nudity on more than 11 occasions within a 12 month period, in addition to any relevant entertainment, will be required to obtain a Sex Establishment Licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (if adopted) from the Authority authorising such activity. Applications for such premises will be considered on their individual merits.



- 8.3 It is the view of the Licensing Authority that 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 entertainment of an adult nature may be occasional or restricted to certain times of the day. In these cases, any restrictive conditions to protect children will apply only at these times. When submitting an application, if no reference is made to the provision of adult entertainment or services within an operating schedule at "Box N", then the Authority will interpret this to mean that such entertainment will not be provided and a condition to this effect will be applied to the licence.

## **9.0 The Operating Schedule and Conditions**

- 9.1 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 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
- 9.2 The operating schedule must include all information necessary to enable the responsible authorities or other persons 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.
- 9.3 The Department for Culture Media and Sport (DCMS) have produced a pool of model conditions that may be applied. Where any control measure is not relevant in respect of particular premises or activities, the Licensing Authority will not expect that measure to be mentioned in the operating schedule. Some measures will clearly not all be relevant in every case, and are not to be treated as absolute requirements and will not be used by the Licensing Authority to create standard conditions. Indeed, it is possible that, in respect of some premises no measures will be needed to promote one or more of the licensing objectives, for example, because they are adequately dealt with by other existing legislation.
- 9.4 The Licensing Authority acknowledges that where the responsible authorities and other persons do not raise any representations about an application, it is the duty of the Licensing Authority to grant the application subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Act.
- 9.3 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.

- 9.4 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.
- 9.5 In the context of the above, the Licensing Authority will, as far as it is possible to do so, avoid imposing disproportionate and over-burdensome conditions on premises unless it is considered appropriate to do so. Conditions will be tailored to the individual style and characteristics of the premises and events concerned. The Licensing Authority does not propose to implement standard conditions of licence as a matter of course, but may draw upon the pool of model conditions issued by the DCMS, a copy of which will be available to applicants from the Licensing Office. The Licensing Authority is aware that the Lancashire Constabulary have produced an additional pool of licence conditions which they may request the Licensing Authority to use in appropriate circumstances. These are available from the Lancashire Constabulary. However, the Licensing Authority emphasises that it will only attach conditions as appropriate given the circumstances of each individual case and to achieve the licensing objectives. References to the DCMS and Lancashire Constabulary pools of conditions are included for the information and assistance of applicants, and the inclusion of a condition in either “pool” does not imply that the Licensing Authority will necessarily consider it appropriate to impose.
- 9.6 Applicants may include any of the conditions from the “pools” in their operating schedules.
- 9.7 Conditions not listed in either “pool” may be specifically tailored by the Council and attached to licences as appropriate.
- 9.8 The model conditions cover, among other things, issues surrounding:
- crime and disorder
  - public safety
  - cinemas and fire safety
  - public nuisance
  - protection of children from harm.
- 9.9 Where no representations have been made, the power to impose conditions exists only when the Act makes them compulsory or when they reflect the operating schedule proposed by the applicant. The Licensing Authority acknowledges that it may not itself impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied of the appropriateness to impose conditions due to the representations made. It may then only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations
- 9.10 There are a number of mandatory conditions that are attached to licences. For a full list of all the mandatory conditions refer to Appendix 4.

## **10.0 Licensing Objectives**

- 10.1 Section 4 of the Act sets out the licensing objectives, which the Licensing Authority is under a duty to promote when carrying out its functions under the Act. The objectives are as follows:
- the prevention of crime and disorder;

- public safety;
- the prevention of public nuisance;
- the protection of children from harm

- 10.2 These four objectives are the only matters that may be taken into account in considering an application, and any licence conditions attached following the consideration of relevant representations must be appropriate to achieve these four objectives
- 10.3 The Licensing Authority considers that each of the licensing objectives is of equal importance for the purposes of this policy.
- 10.4 The Licensing Authority is of the view that the objective of the licensing process is to allow for the provision of alcohol, regulated entertainment and late night refreshment in a way which prevents crime and disorder, public nuisance and harm to children, ensures public safety and is not a detriment to the amenity of residents or businesses. This policy statement is therefore designed to deal with matters within the control of the licence holder and will focus on the impact of activities taking place on those living, working or otherwise engaged in the vicinity.
- 10.5 The Licensing Authority recognises that it is ultimately for the Designated Premises Supervisor to decide how best to manage the premises. However, the Authority expects that the DPS or another personal licence holder should normally be on the premises when alcohol is supplied.(except where in a case of a community premises the mandatory licence condition in S19 of the Act has been disapplied) If they are absent from the premises, they will still be ultimately responsible for the actions of those they authorise to permit sales of alcohol. It is considered good practice that any such authorisations should be in writing. Where any person who does not hold a personal licence is authorised to sell alcohol, the DPS is encouraged to provide, or ensure that, the authorised person has received some training on the requirements of the Licensing Act, and any conditions attached to the licence for the premises concerned. It is recommended that a record of such training be maintained.
- 10.6 The Licensing Authority recognises that Licensing functions are only one means of securing the delivery of the objectives. Delivery must therefore involve partnership working with local authorities, the Police, local businesses and local people working together towards the common promotion of the four objectives.
- 10.7 In particular, the Licensing Authority believes that this partnership working must involve the entertainment, hospitality and leisure industries. Co-operation and partnership are the best means of promoting the licensing objectives.
- 10.8 Each application will be considered on its individual merits. This policy does not seek to introduce 'zones' within the area where specific activities are concentrated.

### **11.0. Opening Hours**

- 11.1 The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance due to large concentrations of people leaving the premises at the same time.
- 11.2 This policy will not be used to fix those hours during which alcohol can be sold. In general, and subject to consideration by the Licensing Authority of any relevant representations, any licensed premises will be permitted to sell alcohol during the hours that they have applied for, provided that this is consistent with the licensing objectives.

- 11.3 However as stated above, there may be premises that are known to experience disorder and disturbance. Subject to representations from a responsible authority or other persons a limitation on licensing hours for those premises may be appropriate.
- 11.4 The Licensing Authority recognises that longer licensing hours can contribute to easing disorder and other problems that often occur at late night food premises, taxi ranks, private hire offices and other transport sources.
- 11.5 However, a limitation on licensing hours may be imposed in relation to individual premises if representations are received from a responsible authority or other persons and the premises are identified as a focus for disorder and disturbance.
- 11.6 As stated, the Licensing Authority will deal with applications on their individual merits. However as far as premises in residential areas are concerned, where relevant representations are received, stricter controls may be imposed in respect of opening hours to ensure that disturbance to local residents is minimised.

## **12.0 Protection of Children**

- 12.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-aways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered appropriate to do so in order to protect them from physical, moral or psychological harm. Equally, no premises will be obliged to allow access by children.
- 12.2 If relevant representations are received in relation to limiting access to children, the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children would include premises:-
- where entertainment of an adult or sexual nature is provided
  - where there is a strong element of gambling taking place (but not, for example, the simple presence of a small number of cash prize gaming machines)
  - with a known association with drug taking or dealing
  - where there have been convictions of current members of staff for serving alcohol to those under 18
  - with a reputation for under age drinking
- 12.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself.
- 12.4 The options available for limiting access by children would include:-
- a limit on the hours when children may be present
  - a limitation or exclusion when certain activities are taking place
  - the requirement to be accompanied by an adult
  - access may be limited to parts of the premises but not the whole
  - an age limitation (for under 18s)
- 12.5 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed

the issue of access will remain a matter for the discretion of the individual licensee or club.

- 12.6 Under the Act, certain “responsible authorities” must be notified of and are entitled to make representations about applications for premises licences or club premises certificates or major variations of such licences or certificates, or to ask the licensing authority to review a licence or certificate. Applicants for premises licences and club premises certificates are required to send details of their applications to these bodies. In connection with the protection of children the Licensing Authority considers the local Area Child Protection Committee to be the responsible body to which applications should be copied.
- 12.7 Where a large number of children are likely to be present on any licensed premises, for example a children’s show or disco, the applicant may wish to consider including in the operating schedule arrangements for the presence of an appropriate number of adult staff to ensure public safety and the protection of the children from harm. The applicant should also consider whether employees working at the premises for such events and having unsupervised contact with children should have an enhanced Disclosure and Barring Service check.
- 12.8 Children may also be present at an event as entertainers, and where they are not accompanied by a parent or guardian, the applicant may wish to consider nominating an adult responsible for such child performers at such performances. The applicant should also consider whether a nominated adult should have had an enhanced DBS check.
- 12.9 Applicants may wish to include in their operating schedules arrangements to ensure that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself. The Act provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the licensing authority itself.
- 12.10 The following matters will also be considered in relation to the protection of children from harm:
- Whether access of children to cigarette machines is restricted
  - Whether access of children to any gaming machines is restricted
  - Where appropriate, the procedures for ensuring that any customer coming onto the premises is over the age of 18
  - The steps taken to ensure that, where appropriate, all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to protect children from harm
- 12.11 Applicants may wish to indicate in the operating schedule how the protection of children from harm will be addressed. The above items are not intended to be exhaustive, and the applicant should have considered all relevant aspects of the protection of children from harm applicable to the particular premises.
- 12.12 It is the view of the Licensing Authority that 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 entertainment of an adult nature may be occasional or restricted to certain times of the day. In these cases, any restrictive conditions to protect children will apply only at these times. When submitting an application, if no reference is made to the provision of adult entertainment or services within an operating schedule at "Box N", then the Authority will interpret this to mean that such entertainment will not be provided and a condition to this effect will be applied to the licence.

### **13.0 Prevention of public nuisance**

13.1 The most obvious aspect of public nuisance is noise. The primary source of noise is amplified music, either uncontained outdoors or emanating from premises, which do not have sufficient measures in place to contain the sound. Late at night or in the early hours of the morning, individuals shouting in the street or groups of people talking in an animated fashion generate a substantial level of noise and in some cases this is aggravated by offensive language.

13.2 As customers leave licensed premises, the sound of their conversation can disturb residents. Potentially greater problems arise when customers congregate or accumulate outside the licensed premises. However, it is clear that the person in control of the premises has a responsibility to ensure that disturbance to residents and businesses is kept to a minimum.

13.3 In considering licence applications where relevant representations are received, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and disorder having regard to all the circumstances of the application. When addressing public nuisance, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent public nuisance, taking account of the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:

- The steps the applicant has taken or proposes to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, noise limitation devices and keeping windows closed during specified hours.
- The steps taken to ensure that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent public nuisance
- The steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises, for example warning signs at exits, and warning announcements within the premises, and the use of door supervisors to pass on the message
- The steps the applicant has taken or proposes to prevent queuing, or if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise manage and monitor the queue to prevent disturbance of obstruction, and to prevent patrons congregating outside the premises.
- The implementation of a last admission time, and how the last admission time relates to the closing time of the premises

- The steps the applicant has taken or proposes to take to manage queues so that patrons who will not gain admission before any last admission time are advised accordingly
- The steps the applicant has taken to reduce queuing outside the premises and to minimise the length of time people have to queue at the premises
- The steps the applicant has taken to advise patrons that they will not be admitted if they are causing a disturbance, and the steps taken to implement a procedure for banning patrons who continually leave or arrive at the premises in a manner which causes a public nuisance or disturbance.
- The arrangements made or proposed for parking by patrons and the effect of parking on local residents.
- The arrangements the applicant has made or proposes to make for security lighting at the premises, and the steps the applicant has taken or proposes to take to ensure that lighting will not cause a nuisance to residents.
- Whether there is sufficient provision for public transport for patrons, for example the provision of a free phone taxi service or other arrangements with taxi companies, and whether information is provided to patrons about the most appropriate routes to the nearest transport facilities.
- Whether taxis and private hire vehicles serving the premises or traffic flow from the premises are likely to disturb local residents.
- Whether routes to and from the premises pass residential premises.
- Whether other appropriate measures to prevent nuisance have been taken, such as the use of CCTV or the employment of an adequate number of licensed door supervisors.
- The measures proposed to prevent the consumption or supply of illegal drugs, including any search and disposal procedures.
- The procedures in place for ensuring that no customer leaves with bottles or glasses
- If the applicant has previously held a licence within the area of the Council, the history of any enforcement action arising from those premises.
- Whether the premises would result in increased refuse storage or disposal problems, or additional litter in the vicinity of the premises.
- The steps the applicant has taken or proposes to take in order to ensure that standards of public decency are maintained in any entertainment provided at the premises.
- If appropriate, whether music is played at a lower level towards the end of the evening in a “wind down period”.
- The applicant’s proposals for the length of time between the last sales of alcohol, and the closing of the premises
- The steps the applicant has taken to prevent noise and other public nuisance from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking e.g. a street or pavement adjacent to the premise

The above list is not intended to be exhaustive, and the applicant should consider all aspects of the operation that may affect public nuisance.

- 13.4 Since the introduction of the Health Act 2006 the requirement for patrons to go outside a premises to smoke has caused an increase in the number of noise and anti-social behaviour complaints received by this and other Councils. It is therefore expected by the Licensing Authority that the management of licensed premises will ensure that adequate provision is made to supervise those patrons who leave the premises for a short time to smoke, having regard to the health and safety of their staff. In certain cases some form of regular engagement between businesses and residents can lead to better understanding of the needs of each party and inspire a degree of trust.

13.5 The cumulative effects of litter around premises carrying on licensable activities can amount to public nuisance. The Licensing Authority requires that any premises that can cause litter, be it from a take away food establishment or cigarette debris left by its customers, must remove it at regular intervals. At the end of trading, management of the premises should arrange for a final check of the area immediately outside the premises, to ensure that no litter, spilled food or cigarette debris is left. In some cases it may be appropriate 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.

#### **14.0 The prevention of crime and disorder**

14.1 The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs.

14.2 It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature. However, the Licensing Authority recognises that CCTV cameras at premises have an important role in preventing crime and disorder.

14.3 The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the area, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.

14.4 Where there are relevant representations, the Licensing Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in crime and disorder in the area or the premises and this cannot be prevented by the imposition of conditions. When addressing crime and disorder, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent crime and disorder, taking account the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:

- Use of CCTV inside and outside the premises. The Lancashire Constabulary has produced suggested minimum requirements for CCTV and these are available from the Lancashire Constabulary or from the Licensing Authority's administrative staff
- Use of metal detection or other search equipment or procedures
- Crime and disorder risk assessment in relation to the proposed activities
- Measures to prevent the use or supply of illegal drugs and procedures for searching customers
- Ensuring that all staff are appropriately trained



- Ensuring that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent crime and disorder
- Employment of sufficient security staff where appropriate, controlling admission, monitoring capacity within the premises as a whole and in separate rooms/levels and patrolling the interior and exterior of the premises (any such staff must be licensed by the Security Industry Authority). The Licensing Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub. It will be for the applicant to consider the appropriate number of door staff required for the particular premises.
- Ensuring that a register of door staff and their working times is maintained
- Participation in Pub Watch, Best Bar None or other relevant schemes and using radio links/pages as a means of connecting to other licensed premises.
- Use of plastic or polycarbonate glasses and bottles, where appropriate, or toughened glass. Applicants are advised that the Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries
- Wherever possible, agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require.
- Adopting the “Night Safe Initiative” and “Safer Clubbing Guide” as statements of best practice
- Following the trade codes of practice, for example BBPA and Portman Group, and not carrying out any irresponsible drinks promotions
- Providing a suitable environment for customers having regard to the activities going on in the premises, in particular appropriate levels of seating
- Ensuring that there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly.
- Maintaining an incident log
- The steps the applicant has taken to prevent crime and disorder issues from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking, due to location, control within and management of such areas.

It should be noted that this list is not intended to be exhaustive. It may be appropriate for the applicant to consider other steps. Equally, the Licensing Authority recognises that not all the items in the list will be applicable to all premises.

14.5 Following the receipt of relevant representations, the Licensing Authority will not normally allow a person to be specified as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person’s known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he may have been granted a personal licence. However, each case would be considered on its own merits in the light of representations received.

## **15.0 The promotion of public safety**

15.1 The Act complements but does not seek to duplicate the statutory requirements of other legislation, which affect those who have responsibility for the conduct of licensed premises such as the Health and Safety at Work Etc. Act 1974.

15.2 One of the things which the licensing system can provide is agreement in advance on a standard layout for furniture, location of stage, placing of linked seats etc. so that

licensees can be confident about their practical arrangements, provided that they stick to that way of doing things. With other legislative controls, there may be no official inspection of the arrangements made, unless there is an investigation when something has gone wrong.

- 15.3 As a consequence of the many common features of leisure businesses, such as the operation of door policies, competition for taxis and the interaction with people on the street late at night, individual premises necessarily function as part of a network of businesses, sharing information on crime and disorder issues which affect them all.
- 15.4 The Licensing Authority recognises that participation in forums such as Pub Watch and the proper use of network radios are key to the safe operation of the majority of leisure businesses. It may be appropriate for an operating schedule to include these practical matters.
- 15.5 Fire safety requirements are determined principally by specific fire safety legislation. The overall standard of fire safety is an important consideration in determining the suitability of premises for licensable activities.
- 15.6 The Licensing Authority will not use the licensing process to secure routine compliance with fire safety requirements, which arise from other legislation. Nevertheless in circumstances where fire safety inadequacies indicate that premises pose a risk to the health and safety to those who enter them and where specific fire safety enforcement does not provide a sufficient or sufficiently rapid remedy, the Licensing Authority will take appropriate steps to ensure that the risk is removed including, where appropriate, and where a review of the licence is requested, revocation of the licence.
- 15.7 In addition the Licensing Authority will also consider and deal with the introduction of further hazards to public safety as part of an event and the exercise of controls over occupancy, so that premises can be cleared safely and efficiently, in the event of an emergency.
- 15.8 Where an applicant identifies an issue with regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should indicate in the operating schedule the steps which will be taken to ensure public safety. Depending on the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided, the following issues may be of relevance:
  - The maximum capacity of the premises, and the arrangements for ensuring that a capacity limit is not exceeded and for monitoring capacity. This applies to the premises as a whole and to different rooms or levels within the premises.
  - Steps taken to ensure that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to ensure the safety of the public
  - The design of the premises and in particular the capability of the structure to bear the likely loads to be imposed at maximum occupancy.
  - The structural condition of the premises and state of repair.
  - The condition of the electrical and gas services, and arrangements for temporary electrical installations.
  - The lighting, heating and ventilation systems.
  - The fire resisting and fire separation properties of the premises.
  - The means of escape from the premises.
  - The adequacy of the sanitary arrangements.

- The use of flame retardant materials on fixtures and fittings.
- The protection and safety of the audience, particularly at any indoor sporting event or boxing or wrestling entertainment.
- The availability of qualified first aiders when the premises are open.
- The protection and safety of performers of entertainment.

The Licensing Authority will expect the applicant to have carried out a risk assessment on these matters in producing the operating schedule. The above list is not intended to be exhaustive, and the Licensing Authority will expect the applicant to have considered all relevant aspects of the safety and suitability of the premises which are not dealt with under other legislation, and which are within the control of the applicant.

## **16.0 Live Music, Dancing, Theatre and Indoor Sport**

- 16.1 The Licensing Authority recognises that proper account should 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 be balanced with these wider benefits, particularly for children.
- 16.2 In determining what conditions should be attached to licences and certificates as a matter of appropriateness for the promotion of the licensing objectives, the Licensing Authority will be mindful of the need to avoid measures which deter live music, dancing and theatre, by imposing indirect costs of a disproportionate nature.
- 16.3 To encourage more performances of live music, the 2012 Act amended the Act by deregulating aspects of the performance of live music so that in certain circumstances live music is not a licensable activity. However, it remains licensable:
- where a performance of live music – whether amplified or unamplified – takes place before 08:00 or after 23:00 on any day;
  - where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment;
  - where a performance of amplified live music takes place at relevant licensed premises at a time when those premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises
  - where a performance of amplified live music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 200 people; or
  - where a licensing authority intentionally removes the effect of the deregulation provided for by the Act (as amended by the 2012 Act) when imposing a condition on a premises licence or club premises certificate as a result of a licence review
- 16.4 The amendments made to the Act by the 2012 Act affect conditions relating to live music in licensed premises. Any existing licence conditions on relevant licensed premises (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music remain in place, but are suspended between the hours of 08:00 and 23:00 on the same day where the following conditions are met:
- at the time of the live music, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;

- if the live music is amplified, the performance takes place before an audience of no more than 200 people; and
  - the live music takes place between 08.00 and 23.00 on the same day.
- 16.5 However, even where the Act (as amended by the 2012 Act) has deregulated aspects of the performance of live music, it remains possible to apply for a review of a premises licence or club premises certificate if there are appropriate grounds to do so. On a review of a premises licence or club premises certificate, section 177A (3) of the Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to live music. Similarly, under section 177A(4), a licensing authority may add a condition relating to live music as if live music were regulated entertainment, and as if that premises licence or club premises certificate licensed the live music.
- 16.6 The Licensing Authority will monitor the impact of any restrictions on regulated entertainment in the district, particularly on live music and dancing. If there is evidence that licensing requirements deter such activities, it will consider how to prevent this and, if necessary will review this policy, but will remain mindful of the licensing objectives.
- 16.7 The Licensing Authority recognises that performances of live music and dancing are central to the development of cultural diversity and vibrant communities where artistic freedom of expression is valued. Music and dancing also help to unite communities, and in ethnically diverse communities, new and emerging musical and dance forms can assist the development of a fully integrated society.
- 16.8 As a result of the 2013 Order, a performance of a play or dance, or an indoor sporting event, will no longer require a licence to the extent that certain qualifying conditions (see paragraph 2.6) are satisfied. Similarly, to the extent that those qualifying conditions are satisfied, any current licence condition that relates to an activity for which a licence is no longer required will (except in the circumstances described in the next paragraph) have no effect
- 16.9 Where, however, non-licensable activities take place at the same time as other activities for which a licence is required (e.g. the sale or supply of alcohol for consumption on the premises), conditions included in a licence may nevertheless apply to the non-licensable activities in the circumstances set out in paragraphs 16.9 and 16.10 below.
- 16.10 If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.
- 16.11 Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities (and will generally be classed as a performance of live music) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers, if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting

access to a dance floor, where the presence of customers who had been consuming alcohol on the premises had led to serious disorder.

- 16.12 The Licensing Authority recognises that the absence of cultural provision in any area can itself lead to young people being diverted into anti-social activities that damage communities and the young people involved themselves.
- 16.13 The Licensing Authority is mindful that the Council itself, as landowner, may seek in its own name premises licences for appropriate public spaces within the district. This will make it easier for people to organise suitable cultural events on Council property.

## **17.0 Boxing and Wrestling**

- 17.1 The 2013 Order amended the existing descriptions of regulated entertainment to make clear that both an indoor boxing or wrestling entertainment cannot also be an indoor sporting event, and that any contest, exhibition or display combining boxing or wrestling with one or more martial arts ('combined fighting sports') is – whether indoors or not – a boxing or wrestling entertainment.
- 17.2 To the extent that a premises licence or club premises certificate purports to authorise a boxing or wrestling entertainment or combined fighting sports as an 'indoor sporting event', the 2013 Order provides that the authorisation will be treated as having authorised those activities as a boxing or wrestling entertainment. Those activities will continue to be subject to any relevant conditions attached to that authorisation.

## **18.0 Incidental Music**

- 18.1 In addition to provisions introduced by the 2012 Act, the performance of live music or playing of recorded music is not regulated entertainment under the Act if it is 'incidental' to another activity "which is not itself a description of entertainment falling within paragraph 2" of Schedule 1 to the Act.
- 18.2 As a result of the 2013 Order, the incidental music exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required as it takes place between 08:00 and 23:00 on the same day before an audience which does not exceed the relevant limit; such an activity would no longer be a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the Act. This means that, while a performance of live music or the playing of recorded music cannot be incidental to a boxing or wrestling entertainment, such music may be within the scope of the incidental music exemption for an indoor sporting event or performance of a play or dance for which no licence is required (e.g. because it is an indoor sporting event taking place between 08:00 and 23:00 before an audience which does not exceed 1,000).
- 18.3 Whether or not music is "incidental" to another activity will depend on the facts of each case. In considering whether or not live or recorded music is incidental, one relevant factor will be whether, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the Act. Other factors might include some or all of the following:

- Is the music the main, or one of the main, reasons for people attending the premises and being charged?
- Is the music advertised as the main attraction?
- Does the volume of the music disrupt or predominate over other activities, or could it be described as 'background' music?

18.4 Conversely, factors which would not normally be relevant in themselves include:

- The number of musicians, e.g. an orchestra providing incidental music at a large exhibition.
- Whether musicians are paid.
- Whether the performance is pre-arranged.
- Whether a charge is made for admission to the premises.

## **19.0 Tourism and Employment**

19.1 The Licensing Authority will ensure that it receives, when appropriate, reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in the considerations of its Committee and Sub-Committees.

19.2 The Licensing Act Committee will also ensure that it is kept informed of the employment situation in the area and the need for new investment and employment where appropriate.

## **20.0 Link between Licensing and Planning and other Regulatory Regimes**

20.1 The Licensing Authority is mindful that the licensing and planning regimes should be kept separate to avoid duplication and inefficiency. A licensing application should not be a re-run of the planning application. Where considered necessary, the Licensing Act Committee will report to the Planning Committee on the situation regarding licensed premises within the area, including the general impact of alcohol-related crime and disorder. This will enable the Planning Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

20.2 In general, planning permissions authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specified activities proposed by a prospective licence holder need to be considered when an application is made for a premises licence or club premises certificate.

20.3 An application for a premises licence or club premises certificate will normally only be considered where the activity to be authorised by the licence is a lawful planning use of the premises, as evidenced by a valid planning consent, and the hours sought do not exceed those authorised by such planning consent. However, the Licensing Authority acknowledges that there may be circumstances where it is appropriate to deal with a licensing application before the planning process has been completed, and notes in particular the provisions in the Act in respect of provisional statements.

20.4 The Licensing Authority recognises that matters such as health and safety and fire safety are dealt with in other legislation, and will avoid duplication with other regulatory regimes so far as possible. Only conditions that are appropriate for the promotion of the

licensing objectives will be imposed, and only following the consideration of relevant representations.

## **21.0 Promotion of Racial Equality**

21.1 The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different racial groups.

21.2 The Council is required under the Race Relations Act 1976, as amended, to produce a race equality scheme, assess and consult on the likely impact of proposed policies on race equality, monitor policies for any adverse impact on the promotion of race equality, and publish the results of such consultations, assessments and monitoring.

21.3 The Licensing Authority will monitor the impact of this policy on race equality, and feed the results of such monitoring into the race equality scheme.

## **22.0 Administration, Exercise and Delegation of Functions**

22.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, a Sub-Committee, or by an officer acting under delegated authority.

22.2 Many licensing decisions will be purely administrative in nature, and where there are no relevant representations, the Licensing Authority takes the view that a decision should be delegated to officers in the interests of speed, efficiency and cost-effectiveness.

22.3 Accordingly, where there are no representations for example for an application for the grant of a premises licence or club premises certificate, the matter will be dealt with by officers. Applications where there are relevant representations will be dealt with by Members, as will any application for a review of a licence.

22.4 The Licensing Authority does not intend that a Sub-Committee considering an application will include any Member who represents the Ward in which the premises which are the subject of the application are situated.

22.5 Applicants are encouraged to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

22.6 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies, local crime prevention strategies including the Lancaster District Alcohol Harm Reduction Strategy 2007 – 2010, and any other documents setting out good practice in relation to some or all types of premises (for example, "Safer Clubbing"). Applicants will be expected to have taken these into account, where relevant and appropriate, and to demonstrate when formulating their Operating Schedule that such policies and documents have been considered.

22.7 Where the Act or Regulations thereunder require the submission of plans, the Licensing Authority will generally require these to be drawn to the scale of 1 centimetre representing 100 centimetres, although a different scale may be permitted by prior agreement for plans of open land.

- 22.7 When determining applications the Licensing Authority will have regard to any Guidance issued by the Home Office. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.
- 22.8 When attaching conditions following the consideration of relevant representations, the Licensing Authority will also be aware of the need to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature. However, this will be balanced with the need to promote the licensing objectives.
- 22.9 The Licensing Authority acknowledges the advice received from the Home Office that the views of vocal minorities should not be allowed to predominate over the general interests of the community.
- 22.10 The following table sets out the delegation arrangements established under Section 10 of the Act:

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for Personal Licence with relevant Unspent Convictions	If a Police representation made	If no Police representation made
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 objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	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	All cases	
Determination of a Police objection to a Temporary event notice.		
Determination of film classification		
Determination of Minor Variations		
Disspapplication of the S19 requirement to have a designated premise supervisor in Community Premise		
Local Authority is a Consultee and not the relevant authority Considering the Application.		

## 23.0 Enforcement Policy

23.1 The Licensing Authority has established protocols with amongst others, the Lancashire Constabulary and Lancashire Fire and Rescue Service and the Council's Environmental Health service on enforcement issues to ensure efficiency in the deployment of local authority staff and the other regulatory services who may be engaged in enforcing licensing law and the inspection of licensed premises. For this purpose, a M.A.L.T (Multi-Agency Licensing Team) has been set up by the relevant enforcement agencies to ensure effective and focussed enforcement. Inspections will take place if and when they are judged necessary, and this should ensure that resources are more effectively concentrated on problem premises. On occasions, multi-agency enforcement inspections will be carried out in conjunction with Home Office approved enforcement campaigns. The protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained. The Authority recognises the Hampton principles of inspection and enforcement, which include:

- No inspection should take place without a reason , and
- Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection

23.2 In any enforcement action taken by the Licensing Authority, the key principles of consistency, transparency and proportionality will be maintained.

23.3 The name of a Designated Premises Supervisor will be displayed on the summary of the licence, which must be prominently displayed at the premises. For enforcement

purposes, if the Designated Premises Supervisor is not present at the premises, the Licensing Authority considers that it is good practice for name of the personal licence holder or another person authorised for the sale of alcohol to be displayed in a prominent position on the premises to provide a point of contact for the enforcement agencies.

## **24.0 Early Morning Alcohol Restriction Orders**

24.1 This section provides guidance about Early Morning Alcohol Restriction Orders (“EMROs”). The power conferred on licensing authorities to make, vary or revoke an EMRO (or propose to take any of these steps) is set out in sections 172A to 172E of the Act. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

24.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

24.3 An EMRO:

- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
- applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
- applies to the whole or any part of the licensing authority’s area;
- will not apply to any premises on New Year’s Eve (defined as 12am to 6am on 1 January each year);
- will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only through mini-bars and/or room service; and
- will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the Act.

24.4 An EMRO can apply to the whole or part of the licensing authority’s area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.

24.5 The final decision to make an EMRO (or to vary or revoke one) would be made by the full council of the licensing authority. Any preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority.

24.6 Before the licensing committee determines to recommend that the full council make a proposed EMRO, it would have to be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The licensing authority would consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its

own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

## **25.0 Personal Licences**

- 25.1 Much of the foregoing policy inevitably relates to premises licences and club premises certificates. However, the Licensing Authority will also be responsible for issuing personal licences authorising individuals to supply alcohol or to authorise the supply of alcohol, in accordance with a premises licence.
- 25.2 Provided that an applicant fulfils the requirements of Section 120 (2) (a), (b) and (c), of the Act, a licence will be granted unless the applicant has a relevant conviction or a foreign conviction as defined in the Act. In the event of such a conviction, the application will be referred to the Police, and if the Police give an objection notice, a hearing will generally be held. Whilst each application and objection will be considered on its merits, the application will normally be rejected if the Licensing Authority considers this appropriate for the crime prevention objective.
- 25.3 From the 1<sup>st</sup> April 2015 the requirement to renew a personal licence has been removed. As a result of that amendment a personal licence will no longer have an expiry date.

## **26.0 Permitted temporary activities**

- 26.1 Where a person wishes to use premises for one or more of the licensable activities for a period not exceeding 168 hours or 7 days a premises licence is not required. The person can simply serve a temporary event notice on the Licensing Authority notifying them of the event. The notice must be served on the Licensing Authority and a copy served on the police and the local authority exercising environmental health functions no later than ten working days before the event is to begin (not including either the day the notice is received or the day of the event) or 5 working days in the case of a late TEN. However the Licensing Authority would encourage applicants to give as much notice as possible so that the notice can be given full consideration
- 26.2 The maximum number of persons allowed on the premises at the same time during the temporary event is 499.
- 26.3 If alcohol is to be supplied, all supplies must be carried out by or under the authority of the person who served the notice.
- 26.4 Only the police and the local authority exercising environmental health functions may object to the staging of a temporary event and they may do so only on the ground that allowing the premises to be used as proposed would undermine any of the four licensing objectives.
- 26.5 The Licensing Authority must consider an objection notice and any representations which the premises user may wish to make. This is likely to be by way of a hearing unless all parties agree that a hearing is unnecessary. The Licensing Authority will give notice of its decision and the reasons for the decision. If the Licensing Authority upholds the objection it may serve a counter notice and the temporary event will not be able to be staged or it may attach conditions to the TEN. The licensing authority acknowledges that it cannot attach any condition in relation to a TEN that is not already attached to the premise licence if applicable. It is hoped that organisers of such activities will voluntarily

comply with the requirements of this policy in staging their events. When considering objections the Licensing Authority will take account of the provisions of this document.

- 26.6 Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised. The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

- 26.7 There are statutory limitations on the number of temporary event notices which can be given by individuals and which can be given in relation to particular premises.

- the number of times a person may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (12 times in a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

- 26.8 For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices.

### **27.0 Contact Details /Advice / Guidance**

Applicants can obtain further details about licensing or the application process from:

The Licensing Manager or any other officer in the Licensing Section.

**Telephone: 01524 582033**  
**e-mail:licensing@lancaster.gov.uk**

Licensing staff will be willing to give general advice to potential applicants. For specific advice on any intended application, an applicant may wish to consult a solicitor who has specialist knowledge of the Act.

Details of how to make a representation in relation to an application for a premises licence are attached at Appendix 1

Details of how to request a review of a premises licence are attached at appendix 2

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted