

SUMMARY OF PROPOSED CHANGES TO EXISTING POLICY

AUGUST 2010

| Paragraph number <sup>i</sup> | Title/description <sup>ii</sup>                | Proposed amendment <sup>iii</sup>  | Reason <sup>iv</sup>  |
|-------------------------------|--|--|---|
| 1                             | Introduction                                   | 1.3 inserted amended wording:-<br>“ <b>This statement of licensing policy is a requirement of Section 5 of the Licensing Act 2003 (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 20<sup>th</sup>March 2010). The Licensing Authority is, therefore, bound by the Act, any regulations made under it and the Section 182 guidance</b> ”.  | Clarity   |
| 2                             | Scope of the Licensing Act                     | 2.1 Added:-<br>“ <b>The policy covers new applications, transfers, variations of licences and certificates and provisional statements as well as renewals of personal licences. It also includes the review of licences and certificates</b> ”   | Additional information  |
| 4                             | Responsible Authorities and Interested Parties | 4.2 Amended details for Planning to:-<br>“ <b>Regeneration and Policy</b> ”<br>Inserted:-<br>“ <b>Trading Standards, Metrology Section, 58-60 Guldhall Street, Preston, PR1 3NU</b> ”<br>4.2 Inserted:-<br>“ <b>S33 of the Policing and crime Act 2009 has amended the definition of an interested party to include a member of the relevant Licensing Authority. As such, a Councillor of Lancaster City Council may now make representations as an interested party. This means that they could call for a review of a premise licence or continue to act in a</b> ” | Restructure of service<br>Omitted from previous statement<br>Amendment to legislation |

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|   |              | representative capacity on behalf of ward residents for any new applications, or applications to vary.”  |                        |
| 5 | Applications | <p>Inserted:-</p> <p><b><u>“5.0 APPLICATIONS FOR A PREMISES LICENCES AND CLUB PREMISES CERTIFICATES</u></b></p> <p><b>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</b></p> <p><b>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 Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005. This includes marking the areas of the premises which are proposed to be used for each licensable activity. It is important to note</b></p> | Additional information |

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|   |  | <p>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.</p> <p>5.3 As indicated above, the Act requires licence applicants to publicise their applications. This is to enable interested parties and responsible authorities to make a representation if they wish. Our experience as a Licensing Authority is that statutory publicity may not always bring applications to the attention of all parties. Therefore, in addition to putting applications on our web site, we will notify all members of the Council of applications for premises licences, club premises certificates and variations received on a weekly basis.</p> <p>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.”</p> <p>Moved paragraph 5 – Licensing Objectives to paragraph 10</p> |                                |
| 6 | Applications made by the Licensing Authority | <p>Inserted:-</p> <p><b><u>“6.0 APPLICATIONS MADE BY THE LOCAL AUTHORITY</u></b></p> <p>6.1 The Council has sought premises licences for public spaces in the community in its own name and will continue to do so. This could include, for example, open spaces, town centre squares, community halls and similar public spaces. With regard to those places, performers and entertainers will not need to obtain a licence or</p>   | Clarification and transparency |

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|   |            | <p>give a temporary event notice themselves in order to perform. Instead they would simply require permission from the Council as the premises licence holder.</p> <p><b>6.2 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."</b></p>   |   |
| 7 | Variations | <p>Inserted:-</p> <p><b><u>“7.0 VARIATIONS</u></b></p> <p><b>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.</b></p> <p><b>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:</b></p> <ul style="list-style-type: none"> <li>• <b>Changes to the name or address of anyone mentioned on the licence</b></li> <li>• <b>Variations to specify a new individual as the designated premises supervisor</b></li> <li>• <b>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</b></li> </ul> | To explain the process of applying for a variation of a licence, and the process for applying for a minor variation following an amendment to the legislation |

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|  |  | <p>in community premises.</p> <ul style="list-style-type: none"><li>• Minor variations which do not impact on the licensing objectives</li></ul> <p><b>7.3 Minor variations can include the following:</b></p> <ul style="list-style-type: none"><li>• Minor changes to the structure or layout of a premises</li><li>• Small adjustments to the licensing hours</li><li>• The removal of out of date irrelevant or unenforceable conditions</li><li>• Adding certain licensable activities including live music</li></ul> <p><b>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:</b></p> <ul style="list-style-type: none"><li>• If it increases the capacity for drinking on the premises;</li><li>• 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;</li><li>• Impedes the effective operation of a noise reduction measure such as an acoustic lobby</li></ul> <p><b>7.5 The following alterations to licensing hours are excluded from the minor variation procedures:</b></p> <ul style="list-style-type: none"><li>• 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</li><li>• To increase the amount of time on any day during which alcohol may be sold or supplied for consumption off or on the premises.</li></ul> <p><b>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:</b></p> <ul style="list-style-type: none"><li>• The nature of the licensable activity;</li></ul> |  |
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|  |  | <ul style="list-style-type: none"> <li>• The extent of the additional hours sought and whether it will involve later opening or opening between 23.00 and 07.00;</li> <li>• Proximity of the premises to residential areas;</li> <li>• Any licence conditions in already place to mitigate the impact of the activity and any additional conditions volunteered by the applicant;</li> <li>• 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?</li> <li>• Whether the proposed extension applies only at weekends;</li> <li>• Whether there will be any new admittances during the extended period;</li> <li>• The track record of the premises;</li> <li>• Whether the premises is already open during the extended period for other licensable activities;</li> <li>• 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</li> </ul> <p>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.</p> <p>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.”</p> |  |
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| 8 | Adult Entertainment | <p>Inserted:-</p> <p><b><u>“8.0 ADULT ENTERTAINMENT</u></b></p> <p><b>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 will be considering whether to adopt this legislation on the 15<sup>th</sup> September.</b></p> <p><b>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.</b></p> <p><b>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.”</b></p> | Amendment to legislation following the Council’s resolution to adopt Schedule 3 to the Local Government (Miscellaneous Provisions ) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 |

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| 9  | Operating Schedule               | This paragraph has been moved from paragraph 11 – No changes  |                          |
| 10 | Licensing Objectives             | <p>This paragraph has been moved from paragraph 5.</p> <p>Inserted section in bold:-</p> <p><b>“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”.</b></p> | Amendment to legislation |
| 12 | Protection of Children from Harm | <p>This paragraph has been moved from paragraph 7.</p> <p>Inserted:-</p> <p><b>“12.12It 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</b></p>   |                          |



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|    |                               | <p>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.”</p>   |  |
| 13 | Prevention of Public Nuisance | <p>This paragraph has been moved from paragraph 8</p> <p>Inserted:-</p> <p><b>“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.</b></p> <p><b>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 necessary to impose conditions on licences for take away premises which require litter</b></p> |  |

**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."**

21

Administration, Exercise and Delegation of Functions

21.10 Amended table additions are in bold:-

Amendments to the legislation.

| <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 Local Authority is a Consultee and not the relevant authority Considering the Application. | All cases             |                  |  |
|  |  | <b>Determination of Minor Variations</b>   |                       | <b>All cases</b> |  |
|  |  | <b>Dissapplication of the S19 condition requiring a designated premise supervisor at a Community Premise</b>       |                       | <b>All cases</b> |  |

<sup>i</sup> List in this column the paragraph number from the licensing policy as published by your authority. Only list those paragraphs which are proposed to be amended

<sup>ii</sup> Set out the paragraph or section heading to give an indication of the matter covered by the paragraph

<sup>iii</sup> Insert details of the proposed amendment eg “delete X”, “insert Y”, “insert replacement as follows ‘Z...’”

<sup>iv</sup> Where possible, give a reason for making the amendment eg “to correct an error”, “transitional provisions are no longer relevant”