

SUMMARY OF PROPOSED CHANGES TO EXISTING POLICY

June 2015

Paragraph number ⁱ	Title/description ⁱⁱ	Proposed amendment ⁱⁱⁱ	Reason ^{iv}
1	Introduction	1.7 inserted amended wording:- The policy covers new applications, transfers, variations of licences and certificates and provisional. It also includes the review of licences and certificates.	Clarity
2.	Scope of the Licensing Act	Inserted words in Bold;- 2.1 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: <ul style="list-style-type: none"> • 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 	Changes to the legislation.

		<p>2.2 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:</p> <ul style="list-style-type: none">• in the presence of a public audience, or• in private, where a charge is made with a view to profit. <p>2.3 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.</p> <p>2.4 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:</p> <ul style="list-style-type: none">• 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	
--	--	--	--

		<p>religious worship;</p> <ul style="list-style-type: none"> • 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). <p>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:</p> <ul style="list-style-type: none"> • 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 200 people, provided that a number of important conditions are satisfied. (Paragraph 16) <p>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</p>	
--	--	--	--

		dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500.	
4.	Responsible Authorities and Other Persons	<p>4.2 Added details for Public Health and Chief Officer Governance:-</p> <p>Chief Officer (Governance) – Lancaster City Council. The Town Hall, Dalton Square, Lancaster, LA1 1PJ</p> <p>Director of Public Health – Lancashire County Council, Public Health Licensing, East Cliff, Park Hotel, 2nd Floor, Room 221, Preston, Lancashire, PR1 3EA</p> <p>Inserted:-</p> <p>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.</p>	<p>Change to legislation making additional Responsible Authorities.</p> <p>Change to legislation. Throughout policy reference to ‘interested party’ has been replaced with ‘other person’</p>
5.0	Applications for Premises Licences and Club Premise Certificates	<p>Inserted:-</p> <p>5.3 The Licensing Authority now has a statutory duty to advertise all applications on our website,</p>	Change to legislation
16.0	Live Music, Dancing, Theatre and Indoor Sport	<p>Inserted:-</p> <p>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:</p> <ul style="list-style-type: none"> • where a performance of live music – whether amplified or unamplified – takes place before 08:00 or after 23:00 on any day; 	Clarification and transparency

		<ul style="list-style-type: none"> • 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 <p>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:</p> <ul style="list-style-type: none"> • 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. <p>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</p>	
--	--	---	--

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.

16.8 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 16.10 and 16.11 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.

		<p>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.</p>	
17.0	Boxing and Wrestling	<p>Inserted:-</p> <p>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.</p> <p>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.</p>	Amendments to the legislation
18.0	Incidental Music	<p>Inserted:-</p> <p>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.</p> <p>18.2 As a result of the 2013 Order, the incidental music exemption can apply to an indoor sporting event or a</p>	Changes to the legislation.

		<p>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).</p> <p>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:</p> <ul style="list-style-type: none"> • 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? <p>18.4 Conversely, factors which would not normally be relevant in themselves include:</p> <ul style="list-style-type: none"> • 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. 	
--	--	---	--

24.0	Early Morning Alcohol Restriction Orders	<p>Inserted;-</p> <p>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.</p> <p>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.</p> <p>24.3 An EMRO:</p> <ul style="list-style-type: none"> • 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 	Explanation of the procedure in relation to EMRO’s

		<ul style="list-style-type: none"> 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. <p>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.</p> <p>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.</p> <p>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.</p>	
25.0	Personal Licences	<p>Inserted;-</p> <p>25.3 From the 1st 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.</p>	Amendment to legislation
26.0	Permitted Temporary Activities	<p>Amended as follows(amendments in bold);-</p> <p>26.1 Where a person wishes to use premises for one or</p>	Amendment to legislation

		<p>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</p> <p>26.2 The maximum number of persons allowed on the premises at the same time during the temporary event is 499.</p> <p>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.</p> <p>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.</p> <p>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</p>	
--	--	--	--

		<p>requirements of this policy in staging their events. When considering objections the Licensing Authority will take account of the provisions of this document.</p> <p>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).</p> <p>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.</p> <p>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.</p> <ul style="list-style-type: none">• 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	
--	--	---	--

		<p>periods covered by temporary event notices at any individual premises (21 days per calendar year); and</p> <ul style="list-style-type: none"> • the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499). <p>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.</p>	
--	--	--	--

ⁱ 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

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

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

^{iv} Where possible, give a reason for making the amendment eg “to correct an error”, “transitional provisions are no longer relevant”